

Calendar No. 360

104TH CONGRESS
2D Session

S. 1271

[Report No. 104-248]

A BILL

To amend the Nuclear Waste Policy Act of 1982.

MARCH 29, 1996

Reported with an amendment

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2D SESSION

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[Report No. 104-248]

To amend the Nuclear Waste Policy Act of 1982.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1995

Mr. CRAIG (for himself, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. KEMPTHORNE, Mr. KYL, Mr. COCHRAN, Mr. BOND, Mr. SANTORUM, Mr. THURMOND, Mr. WARNER, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. MACK, Mr. THOMAS, Mr. PRESSLER, Mr. SMITH, Mr. HEFLIN, Mr. HELMS, Mr. LOTT, Mr. ROBB, Mr. LEVIN, Mr. COVERDELL, Mr. NUNN, Mr. SHELBY, and Mr. GRAMS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 29, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Nuclear Waste Policy Act of 1982.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That the Nuclear Waste Policy Act of 1982 is amended~~
4 to read as follows:

1 **~~“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.~~**

2 ~~“(a) SHORT TITLE.—This Act may be cited as the~~
 3 ~~‘Nuclear Waste Policy Act of 1995’.~~

4 ~~“(b) TABLE OF CONTENTS.—~~

~~“Sec. 1. Short title and table of contents.~~

~~“Sec. 2. Definitions.~~

~~“Sec. 3. Findings and purposes.~~

~~“TITLE I—OBLIGATIONS~~

~~“Sec. 101. Obligations of the Secretary of Energy.~~

~~“TITLE H—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT
SYSTEM~~

~~“Sec. 201. Railroad.~~

~~“Sec. 202. Intermodal transfer.~~

~~“Sec. 203. Transportation planning.~~

~~“Sec. 204. Transportation requirements.~~

~~“Sec. 205. Interim storage.~~

~~“Sec. 206. Permanent disposal.~~

~~“Sec. 207. Land withdrawal.~~

~~“TITLE III—STATE AND LOCAL RELATIONS~~

~~“Sec. 301. Financial assistance.~~

~~“Sec. 302. State consultations.~~

~~“Sec. 303. Benefits agreements.~~

~~“Sec. 304. Content of agreements.~~

~~“Sec. 305. Review panel.~~

~~“Sec. 306. Consideration in siting facilities.~~

~~“Sec. 307. Acceptance of benefits.~~

~~“Sec. 308. Restriction on use of funds.~~

~~“TITLE IV—FUNDING AND ORGANIZATION~~

~~“Sec. 401. Program funding.~~

~~“Sec. 402. Office of Civilian Radioactive Waste Management.~~

~~“Sec. 403. Federal contribution.~~

~~“Sec. 404. Budget priorities.~~

~~“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS~~

~~“Sec. 501. Compliance with other laws.~~

~~“Sec. 502. Judicial review of agency actions.~~

~~“Sec. 503. Licensing of facility expansions and transshipments.~~

~~“Sec. 504. Siting a second repository.~~

~~“Sec. 505. Financial arrangements for low-level radioactive waste site closure.~~

~~“Sec. 506. Nuclear Regulatory Commission training authority.~~

~~“Sec. 507. Acceptance schedule.~~

~~“Sec. 508. Subseabed or ocean water disposal.~~

~~“Sec. 509. Environmental requirements.~~

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.
 “Sec. 602. Nuclear Waste Technical Review Board.
 “Sec. 603. Functions.
 “Sec. 604. Investigatory powers.
 “Sec. 605. Compensation of members.
 “Sec. 606. Staff.
 “Sec. 607. Support services.
 “Sec. 608. Report.
 “Sec. 609. Authorization of appropriations.
 “Sec. 610. Termination of the Board.

“TITLE VII—MANAGEMENT REFORM

“Sec. 701. Management reform initiatives.
 “Sec. 702. Reporting.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) ~~ACCEPT, ACCEPTANCE.~~—The terms ‘ac-

4 cept’ and ‘acceptance’ mean the Secretary’s act of

5 taking possession of spent nuclear fuel or high-level

6 radioactive waste.

7 “(2) ~~ACCEPTANCE SCHEDULE.~~—The term ‘ac-

8 ceptance schedule’ means the schedule established by

9 the Secretary in accordance with section 507(a) for

10 acceptance of spent nuclear fuel and high-level ra-

11 dioactive waste.

12 “(3) ~~AFFECTED INDIAN TRIBE.~~—The term ‘af-

13 fected Indian tribe’ means any Indian tribe—

14 “(A) within whose reservation boundaries

15 an interim storage facility or a repository for

16 spent nuclear fuel or high-level radioactive

17 waste, or both, is proposed to be located; or

“(B) whose federally defined possessory or usage rights to other lands outside of the reservation’s boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

“(4) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term ‘affected unit of local government’ means the unit of local government and jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

“(5) ATOMIC ENERGY DEFENSE ACTIVITY.—The term ‘atomic energy defense activity’ means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

“(A) Naval reactors development.

“(B) Weapons activities including defense inertial confinement fusion.

“(C) Verification and control technology.

1 “(D) Defense nuclear materials produc-
2 tion.

3 “(E) Defense nuclear waste and materials
4 byproducts management.

5 “(F) Defense nuclear materials security
6 and safeguards and security investigations.

7 “(G) Defense research and development.

8 “(6) CIVILIAN NUCLEAR POWER REACTOR.—

9 The term ‘civilian nuclear power reactor’ means a ci-
10 vilian nuclear power plant required to be licensed
11 under section 103 or 104 b. of the Atomic Energy
12 Act of 1954 (42 U.S.C. 2133, 2134(b)).

13 “(7) COMMISSION.—The term ‘Commission’
14 means the Nuclear Regulatory Commission.

15 “(8) CONTRACTS.—The term ‘contracts’ means
16 the contracts, executed prior to the date of enact-
17 ment of the Nuclear Waste Policy Act of 1995,
18 under section 302(a) of the Nuclear Waste Policy
19 Act of 1982, by the Secretary and any person who
20 generates or holds title to spent nuclear fuel or high-
21 level radioactive waste of domestic origin for accept-
22 ance of such waste or fuel by the Secretary and the
23 payment of fees to offset the Secretary’s expendi-
24 tures, and any subsequent contracts executed by the
25 Secretary pursuant to section 401(a) of this Act.

1 “(9) CONTRACT HOLDERS.—The term ‘contract
2 holders’ means parties (other than the Secretary) to
3 contracts.

4 “(10) DEPARTMENT.—The Term ‘Department’
5 means the Department of Energy.

6 “(11) DISPOSAL.—The term ‘disposal’ means
7 the emplacement in a repository of spent nuclear
8 fuel, high-level radioactive waste, or other highly ra-
9 dioactive material with no foreseeable intent of re-
10 covery, whether or not such emplacement permits re-
11 covery of such material for any future purpose.

12 “(12) DISPOSAL SYSTEM.—The term ‘disposal
13 system’ means all natural barriers and engineered
14 barriers, and engineered systems and components,
15 that prevent the release of radionuclides from reposi-
16 tory.

17 “(13) ENGINEERED BARRIERS.—The term ‘en-
18 gineered barriers’ and ‘engineered systems and com-
19 ponents,’ means man made components of a disposal
20 system. Such term includes the spent nuclear fuel or
21 high-level radioactive waste form, spent nuclear fuel
22 package or high-level radioactive waste, and other
23 materials placed over and around such packages.

24 “(14) HIGH-LEVEL RADIOACTIVE WASTE.—The
25 term ‘high-level radioactive waste’ means—

“(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

“(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes greater than class C low-level waste as defined in title 10 Code of Federal Regulations part 61.

“(15) **FEDERAL AGENCY.**—The term ‘Federal agency’ means any executive agency, as defined in section 105 of title 5, United States Code.

“(16) **INDIAN TRIBE.**—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)).

“(17) **INTEGRATED MANAGEMENT SYSTEM.**—The term ‘integrated management system’ means

the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste.

~~“(18) INTERIM STORAGE FACILITY.—~~The term ‘interim storage facility’ means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

~~“(19) INTERIM STORAGE FACILITY SITE.—~~The term ‘interim storage facility site’ means the specific site within area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

~~“(20) LOW-LEVEL RADIOACTIVE WASTE.—~~The term ‘low-level radioactive waste’ means radioactive material that—

~~“(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and~~

1 “(B) the Commission, consistent with ex-
2 isting law, classifies as low-level radioactive
3 waste.

4 “(21) METRIC TONS URANIUM.—The terms
5 ‘metric tons uranium’ and ‘MTU’ means the amount
6 of uranium in the original unirradiated fuel element
7 whether or not the spent nuclear fuel has been re-
8 processed.

9 “(22) NUCLEAR WASTE FUND.—The terms
10 ‘Nuclear Waste Fund’ and ‘waste fund’ mean the
11 nuclear waste fund established in the United States
12 Treasury prior to the date of enactment of this Act
13 under section 302(c) of the Nuclear Waste Policy
14 Act of 1982.

15 “(23) OFFICE.—The term ‘Office’ means the
16 Office of Civilian Radioactive Waste Management es-
17 tablished within the Department prior to the date of
18 enactment of this Act under the provisions of the
19 Nuclear Waste Policy Act of 1982.

20 “(24) PROGRAM APPROACH.—The term ‘pro-
21 gram approach’ means the Civilian Radioactive
22 Waste Management Program Plan, dated December
23 19, 1994, as modified by this Act, and as amended
24 from time to time by the Secretary in accordance
25 with this Act.

1 “(25) REPOSITORY.—The term ‘repository’
2 means a system designed and constructed under title
3 H of this Act for the permanent geologic disposal of
4 spent nuclear fuel and high-level radioactive waste,
5 including both surface and subsurface areas at
6 which spent nuclear fuel and high-level radioactive
7 waste receipt, handling, possession, safeguarding,
8 and storage are conducted.

9 “(26) SECRETARY.—The term ‘Secretary’
10 means the Secretary of Energy.

11 “(27) SITE CHARACTERIZATION.—The term
12 ‘site characterization’ means activities, whether in a
13 laboratory or in the field, undertaken to establish
14 the geologic condition and the ranges of the param-
15 eters of a candidate site relevant to the location of
16 a repository, including borings, surface excavations,
17 excavations of exploratory facilities, limited sub-
18 surface lateral excavations and borings, and in situ
19 testing needed to evaluate the licensability of a can-
20 didate site for the location of a repository, but not
21 including preliminary borings and geophysical test-
22 ing needed to assess whether site characterization
23 should be undertaken.

24 “(28) SPENT NUCLEAR FUEL.—The term
25 ‘spent nuclear fuel’ means fuel that has been with-

1 drawn from a nuclear reactor following irradiation;
2 the constituent elements of which have not been sep-
3 arated by reprocessing.

4 “(29) STORAGE.—The term ‘storage’ means re-
5 tention of spent nuclear fuel or high-level radioactive
6 waste with the intent to recover such waste or fuel
7 for subsequent use, processing, or disposal.

8 “(30) WITHDRAWAL.—The term ‘withdrawal’
9 has the same definition as that set forth in the Fed-
10 eral Land Policy and Management Act (43 U.S.C.
11 1702 and following).

12 “(31) YUCCA MOUNTAIN SITE.—The term
13 ‘Yucca Mountain site’ means the area in the State
14 of Nevada that is withdrawn and reserved in accord-
15 ance with this Act for the location of a repository.

16 **“SEC. 3. FINDINGS AND PURPOSES.**

17 “(a) FINDINGS.—The Congress finds that—

18 “(1) while spent nuclear fuel can be safely
19 stored at reactor sites; the expeditious movement to
20 and storage of such spent nuclear fuel at a central-
21 ized Federal facility will enhance the Nation’s envi-
22 ronmental protection;

23 “(2) while the Federal Government has the re-
24 sponsibility to provide for the centralized interim
25 storage and permanent disposal of spent nuclear fuel

1 and high-level radioactive waste to protect the public
2 health and safety and the environment, the costs of
3 such storage and disposal should be the responsibility
4 of the generators and owners of such waste and
5 spent fuel, including the Federal Government;

6 “(3) in the interests of protecting the public
7 health and safety, enhancing the Nation’s environmental
8 protection, promoting the Nation’s energy security,
9 and ensuring the Secretary’s ability to commence
10 acceptance of spent nuclear fuel and high-level
11 radioactive waste no later than January 31,
12 1998, it is necessary for Congress to authorize an
13 interim storage facility; and

14 “(4) deficit-control measures designed to limit
15 appropriation of general revenues have limited the
16 availability of the Nuclear Waste Fund for its intended
17 purposes.

18 “(b) PURPOSES.—The purposes of this Act are—

19 “(1) to direct the Secretary to develop an integrated
20 management system in accordance with this
21 Act so that the Department can accept spent nuclear
22 fuel or high-level radioactive waste for interim storage
23 commencing no later than January 31, 1998;
24 and

1 “(2) to provide for the siting, construction, and
2 operation of a repository for permanent geologic dis-
3 posal of spent nuclear fuel and high-level radioactive
4 waste as part of an integrated management system
5 in order to adequately protect the public and the en-
6 vironment;

7 “(3) to take those actions necessary to ensure
8 that the consumers of nuclear energy, who are fund-
9 ing the Secretary’s activities under this Act, receive
10 the services to which they are entitled and realize
11 the benefits of enhanced protection of public health
12 and safety; and the environment, that will ensue
13 from the Secretary’s compliance with the obligations
14 imposed by this Act; and

15 “(4) to provide a schedule and process for the
16 expeditious and safe development and commence-
17 ment of operation of a integrated management sys-
18 tem and any necessary modifications to the trans-
19 portation infrastructure to ensure that the Secretary
20 can commence acceptance of spent nuclear fuel and
21 high-level waste no later than January 31, 1998.

1 **“TITLE I—OBLIGATIONS**

2 **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

3 ~~“(a) DISPOSAL.—The Secretary shall develop and op-~~
4 ~~erate a repository for the permanent geologic disposal of~~
5 ~~spent nuclear fuel and high-level radioactive waste.~~

6 ~~“(b) ACCEPTANCE.—The Secretary shall accept spent~~
7 ~~nuclear fuel and high-level radioactive waste at facilities~~
8 ~~designated by contract holders pursuant to the contracts~~
9 ~~for storage at an interim storage facility pursuant to sec-~~
10 ~~tion 205 in accordance with the acceptance schedule, be-~~
11 ~~ginning not later than January 31, 1998.~~

12 ~~“(c) TRANSPORTATION.—The Secretary shall provide~~
13 ~~for the transportation of spent nuclear fuel and high-level~~
14 ~~radioactive waste accepted by the Secretary. The Sec-~~
15 ~~retary shall procure all systems and components necessary~~
16 ~~to transport spent nuclear fuel and high-level radioactive~~
17 ~~waste from facilities designated by contract holders to and~~
18 ~~among facilities comprising the Integrated Management~~
19 ~~System.~~

20 ~~“(d) INTEGRATED MANAGEMENT SYSTEM.—The~~
21 ~~Secretary shall expeditiously pursue the development of~~
22 ~~each component of the integrated management system,~~
23 ~~and in so doing shall seek to utilize effective private sector~~
24 ~~management and contracting practices in accordance with~~
25 ~~title VII of this Act.~~

1 **“TITLE II—INTEGRATED MANAGEMENT**
 2 **SYSTEM**

3 **“SEC. 201. RAILROAD.**

4 ~~“(a) AUTHORIZATION.—~~The Secretary shall develop
 5 and commence operation of a rail spur originating in Lin-
 6 coln County, Nevada, and terminating at the interim stor-
 7 age facility sites. The Secretary shall acquire rights-of-way
 8 within the corridor designated in subsection (b) as pro-
 9 vided in this section and shall construct and operate, or
 10 cause to be constructed and operated, a railroad and such
 11 facilities as are required to transport spent nuclear fuel
 12 and high-level radioactive waste from existing rail systems
 13 to the interim storage facility and the repository.

14 ~~“(b) ROUTE DESIGNATION.—~~

15 ~~“(1) RIGHTS-OF-WAY AND FACILITIES.—~~The
 16 Secretary shall acquire such rights-of-way and de-
 17 velop such facilities within the corridor (referred to
 18 as the ‘Modified Caliente Route’) depicted on the
 19 map dated July 23, 1995 and on file with the Sec-
 20 retary.

21 ~~“(2) RECOMMENDATIONS.—~~The Secretary shall
 22 consider specific alignment proposals for the
 23 Caliente route made by the State of Nevada and the
 24 units of local government within whose jurisdiction
 25 passes such route.

1 “(3) NOTICE AND DESCRIPTION.—Within 6
2 months of the date of the enactment of the Nuclear
3 Waste Policy Act of 1995, the Secretary shall—

4 “(A) publish in the Federal Register a no-
5 tice containing a legal description of the cor-
6 ridor; and

7 “(B) file copies of the map referred to in
8 paragraph (1) and the legal description of the
9 corridor with the Congress, the Secretary of the
10 Interior, the Governor of Nevada, the Board of
11 Lincoln County Commissioners, the Board of
12 Nye County Commissioners, and the Archivist
13 of the United States.

14 “(4) CONSTRUCTION.—The map and legal de-
15 scription referred to in paragraph (3) shall have the
16 same force and effect as if they were included in this
17 Act. The Secretary may correct clerical and typo-
18 graphical errors in the map and legal description
19 and make minor adjustments in the boundaries of
20 the corridor.

21 “(c) WITHDRAWAL AND RESERVATION.—

22 “(1) PUBLIC LANDS.—Subject to valid existing
23 rights, the public lands depicted on such map are
24 withdrawn from all forms of entry, appropriation,
25 and disposal under the public land laws, including

1 the mineral leasing laws, the geothermal laws, the
2 material sale laws, and the mining laws.

3 ~~“(2) ADMINISTRATIVE JURISDICTION.—Admin-~~
4 ~~istrative jurisdiction of such land is transferred from~~
5 ~~the Secretary of the Interior to the Secretary.~~

6 ~~“(3) RESERVATION.—Such lands are reserved~~
7 ~~for the use of the Secretary for the construction and~~
8 ~~operation of such transportation facilities and associ-~~
9 ~~ated activities under this title.~~

10 ~~“(4) MEMORANDUM OF UNDERSTANDING.—The~~
11 ~~Secretary may also enter into a memorandum of un-~~
12 ~~derstanding with the head of any other department~~
13 ~~having administrative jurisdiction over other Federal~~
14 ~~lands used for purposes of the corridor referred to~~
15 ~~in this section.~~

16 ~~“(d) NATIONAL ENVIRONMENTAL POLICY ACT.—~~

17 ~~“(1) PRELIMINARY DECISIONMAKING ACTIVI-~~
18 ~~TIES.—The Secretary’s activities in connection with~~
19 ~~the designation of a route and the acquisition of~~
20 ~~rights-of-way under this section shall be considered~~
21 ~~preliminary decisionmaking activities. Such activities~~
22 ~~shall not require the preparation of an environ-~~
23 ~~mental impact statement under section 102(2)(C) of~~
24 ~~the National Environmental Policy Act of 1969 (42~~
25 ~~U.S.C. 4332(2)(C)), or any environmental review~~

1 under subparagraph (E) or (F) of section 102(2) of
2 such Act, and shall not be delayed pending comple-
3 tion of the environmental impact statement required
4 under paragraph (2).

5 “(2) TRANSPORTATION FACILITIES.—Construc-
6 tion and operation of transportation facilities au-
7 thorized by subsection (a) within the corridor shall
8 constitute a major Federal action significantly af-
9 fecting the quality of the human environment for
10 purposes of the National Environmental Policy Act
11 of 1969. The Secretary shall prepare an environ-
12 mental impact statement on the construction and
13 operation of such facilities prior to commencement
14 of construction. In preparing such statement, the
15 Secretary shall adopt, to the extent practicable, rel-
16 evant environmental reports that have been devel-
17 oped by other Federal and State agencies.

18 “(3) CONSIDERATIONS.—For purposes of com-
19 plying with the requirements of the National Envi-
20 ronmental Policy Act of 1969 and this section, the
21 Secretary need not consider the need for the devel-
22 opment or improvement of transportation facilities,
23 the timing of the initial availability of the transpor-
24 tation facilities, alternative routes, or alternative
25 means of transportation.

1 “(e) CONSTRUCTION.—Notwithstanding any State or
 2 Federal statute, regulation or orders to the contrary, or
 3 the pendency of any judicial proceeding, the Secretary
 4 shall be authorized to commence construction of transpor-
 5 tation facilities upon compliance with the requirements of
 6 subsections (a) through (d). No court shall have jurisdic-
 7 tion to enjoin the construction of the transportation facili-
 8 ties authorized by this section except upon its entry of a
 9 final order that the construction is not in accord with the
 10 provisions of applicable law.

11 “(f) EXEMPTION.—Neither the Secretary nor any
 12 person constructing or operating railroad facilities under
 13 contract with the Secretary under this section shall be con-
 14 sidered a rail carrier within the meaning of section
 15 10102(22) of title 49, United States Code, and shall not
 16 be subject to the jurisdiction of the Interstate Commerce
 17 Commission.

18 **“SEC. 202. INTERMODAL TRANSFER.**

19 “(a) BEFORE ACCESS.—Until such time as direct rail
 20 access is available to the interim storage facility site, the
 21 Secretary shall utilize heavy-haul truck transport to move
 22 spent nuclear fuel and high-level radioactive waste from
 23 the mainline rail line at Caliente, Nevada, to the interim
 24 storage facility site.

1 “(b) CAPABILITY DATE.—The Secretary shall de-
 2 velop the capability to commence rail to truck intermodal
 3 transfer at Caliente, Nevada, no later than January 31,
 4 1998. Intermodal transfer and related activities are inci-
 5 dental to the interstate transportation of spent nuclear
 6 fuel and high-level radioactive waste.

7 “(c) ACQUISITIONS.—The Secretary shall acquire
 8 lands and rights-of-way necessary to commence intermodal
 9 transfer at Caliente, Nevada.

10 “(d) REPLACEMENTS.—The Secretary shall acquire
 11 and develop on behalf of, and dedicate to, the City of
 12 Caliente, Nevada, parcels of land and right-of-way as re-
 13 quired to facilitate replacement of land and city
 14 wastewater disposal activities necessary to commence
 15 intermodal transfer pursuant to this Act. Replacement of
 16 land and city wastewater disposal activities shall occur no
 17 later than January 31, 1998.

18 “(e) NOTICE AND MAP.—Within 6 months of the
 19 date of enactment of the Nuclear Waste Policy Act of
 20 1995, the Secretary shall—

21 “(1) publish in the Federal Register a notice
 22 containing a legal description of the sites and rights-
 23 of-way to be acquired under this subsection; and

24 “(2) file copies of a map of such sites and
 25 rights-of-way with the Congress; the Secretary of the

1 Interior, the State of Nevada, the Archivist of the
2 United States, the Board of Lincoln County Com-
3 missioners, the Board of Nye County Commis-
4 sioners, and the Caliente City Council.

5 Such map and legal description shall have the same force
6 and effect as if they were included in this Act. The Sec-
7 retary may correct clerical and typographical errors and
8 legal descriptions and make minor adjustments in the
9 boundaries.

10 “(f) IMPROVEMENTS.—The Secretary shall make im-
11 provements to existing roadways selected for heavy-haul
12 truck transport between Caliente, Nevada, and the interim
13 storage facility site as necessary to facilitate year-round
14 safe transport of spent nuclear fuel and high-level radio-
15 active waste.

16 “(g) NATIONAL ENVIRONMENTAL POLICY ACT.—The
17 Secretary’s activities in connection with the development
18 of intermodal transfer capability and improvements to ex-
19 isting roadways pursuant to this section shall be consid-
20 ered preliminary decisionmaking activities. Notwithstand-
21 ing any other law, such activities shall not require the
22 preparation of an environmental impact statement under
23 section 102(2)(C) of the National Environmental Policy
24 Act of 1969 (42 U.S.C. 4332(2)(C)), or any environmental

1 review under subparagraph (E) or (F) of section 102(2)
2 of such Act.

3 “(h) LOCAL GOVERNMENT INVOLVEMENT.—The
4 Commission shall enter into a memorandum of under-
5 standing with the City of Caliente and Lincoln County,
6 Nevada, to provide advice to the Commission regarding
7 intermodal transfer and to facilitate on-site representa-
8 tion. Reasonable expenses of such representation shall be
9 paid by the Secretary.

10 **“SEC. 203. TRANSPORTATION PLANNING.**

11 “(a) TRANSPORTATION READINESS.—The Secretary
12 shall take those actions that are necessary and appropriate
13 to ensure that the Secretary is able to accept spent nuclear
14 fuel and high-level radioactive waste beginning not later
15 than January 31, 1998, and transport such fuel or waste
16 to mainline transportation facilities. As soon as is prac-
17 ticable following enactment of this Act, the Secretary shall
18 analyze each specific facility designated by contract hold-
19 ers in the order of priority established in the acceptance
20 schedule, and develop a logistical plan to assure the Sec-
21 retary’s ability to transport spent nuclear fuel and high-
22 level radioactive waste.

23 “(b) TRANSPORTATION PLANNING.—In conjunction
24 with the development of the logistical plan in accordance
25 with subsection (a), the Secretary shall update and mod-

1 ify, as necessary, the Secretary's transportation institu-
2 tional plans to ensure that institutional issues are ad-
3 dressed and resolved on a schedule to support the com-
4 mencement of transportation of spent nuclear fuel and
5 high-level radioactive waste to the interim storage facility
6 no later than January 31, 1998. Among other things, such
7 planning shall provide a schedule and process for address-
8 ing and implementing, as necessary, transportation rout-
9 ing plans, transportation contracting plans, transportation
10 training in accordance with section 203, and transpor-
11 tation tracking programs.

12 **“SEC. 204. TRANSPORTATION REQUIREMENTS.**

13 “(a) PACKAGE CERTIFICATION.—No spent nuclear
14 fuel or high-level radioactive waste may be transported by
15 or for the Secretary under this Act except in packages that
16 have been certified for such purposes by the Commission.

17 “(b) STATE NOTIFICATION.—The Secretary shall
18 abide by regulations of the Commission regarding advance
19 notification of State and local governments prior to trans-
20 portation of spent nuclear fuel or high-level radioactive
21 waste under this Act.

22 “(c) TECHNICAL ASSISTANCE.—The Secretary shall
23 provide technical assistance and funds to States, affected
24 units of local government, and Indian tribes through
25 whose jurisdiction the Secretary plans to transport sub-

1 stantial amounts of spent nuclear fuel or high-level radio-
2 active waste for public safety officials of appropriate units
3 of local government. Training shall cover procedures re-
4 quired for safe routine transportation of these materials;
5 as well as procedures for dealing with emergency response
6 situations. The Secretary's duty to provide technical and
7 financial assistance under this subsection shall be limited
8 to amounts specified in annual appropriations.

9 “(d) **USE OF PRIVATE CARRIERS.**—The Secretary, in
10 providing for the transportation of spent nuclear fuel
11 under this Act, shall utilize by contract private industry
12 to the fullest extent possible in each aspect of such trans-
13 portation. The Secretary shall use direct Federal services
14 for such transportation only upon a determination by the
15 Secretary of Transportation, in consultation with the Sec-
16 retary, that private industry is unable or unwilling to pro-
17 vide such transportation services at a reasonable cost.

18 “(e) **TRANSFER OF TITLE.**—Acceptance by the Sec-
19 retary of any spent nuclear fuel or high-level radioactive
20 waste shall constitute a transfer of title to the Secretary.

21 **“SEC. 205. INTERIM STORAGE.**

22 “(a) **AUTHORIZATION.**—The Secretary shall design,
23 construct, and operate a facility for the interim storage
24 of spent nuclear fuel and high-level radioactive waste at
25 the interim storage facility site. The interim storage facil-

1 ity shall be subject to licensing pursuant to the Atomic
2 Energy Act of 1954 in accordance with the Commission's
3 regulations governing the licensing of independent spent
4 fuel storage installations, which regulations shall be
5 amended by the Commission as necessary to implement
6 the provisions of this Act. The interim storage facility
7 shall commence operation in phases by January 31, 1998.

8 “(b) DESIGN.—

9 “(1) The interim storage facility shall be de-
10 signed in two phases in order to commence oper-
11 ations no later than January 31, 1998. The design
12 of the interim storage facility shall provide for the
13 use of technologies, licensed, approved, or certified
14 by the Commission for use at the interim storage fa-
15 cility as necessary to ensure compatibility between
16 the interim storage facility and contract holders’
17 spent nuclear fuel and facilities, and to facilitate the
18 Secretary’s ability to meet the Secretary’s obliga-
19 tions under this Act.

20 “(2) The Secretary shall consent to an amend-
21 ment to the contracts to provide for reimbursement
22 to contract holders for transportable storage systems
23 purchased by contract holders if the Secretary deter-
24 mines that it is cost effective to use such transport-
25 able storage systems as part of the integrated man-

1 agement system, provided that the Secretary shall
 2 not be required to expend any funds to modify con-
 3 tract holders' storage or transport systems or to
 4 seek additional regulatory approvals in order to use
 5 such systems.

6 “(c) LICENSING.—

7 “(1) PHASES.—The interim storage facility
 8 shall be licensed by the Commission in two phases
 9 in order to commence operations no later than Janu-
 10 ary 31, 1998.

11 “(2) FIRST PHASE.—No later than 12 months
 12 after the date of enactment of the Nuclear Waste
 13 Policy Act of 1995, the Secretary shall submit to the
 14 Commission an application for a license for the first
 15 phase of the interim storage facility. The Environ-
 16 mental Report and Safety Analysis Report submitted
 17 in support of such license application shall be con-
 18 sistent with the scope of authority requested in the
 19 license application. The license issued for the first
 20 phase of the interim storage facility shall have a
 21 term of 20 years and shall be renewable for addi-
 22 tional terms upon application of the Secretary. The
 23 interim storage facility licensed in the first phase
 24 shall have a capacity of 20,000 MTU. The Commis-
 25 sion shall issue a final decision granting or denying

1 the application for the first phase license no later
2 than 16 months from the date of the submittal of
3 the application for such license.

4 “(3) SECOND PHASE.—No later than 30
5 months after the date of enactment of the Nuclear
6 Waste Policy Act of 1995, the Secretary shall sub-
7 mit to the Commission an application for a license
8 for the second phase interim storage facility. The li-
9 cense for the second phase facility shall authorize a
10 storage capacity of 100,000 MTU. The license for
11 the second phase shall have an initial term of up to
12 100 years, and shall be renewable for additional
13 terms upon application of the Secretary. The second
14 phase of the interim storage facility shall commence
15 operations no later than December 31, 2002.

16 “(d) ADDITIONAL AUTHORITY.—

17 “(1) CONSTRUCTION.—For purposes of comply-
18 ing with subsection (a), the Secretary may com-
19 mence site preparation for the interim storage facil-
20 ity as soon as practicable after the date of enact-
21 ment of the Nuclear Waste Policy Act of 1995 and
22 shall commence construction of each phase of the in-
23 terim storage facility subsequent to submittal of the
24 license application for such phase except that the
25 Commission shall issue an order suspending such

1 construction at any time if the Commission deter-
2 mines that such construction poses an unreasonable
3 risk to public health and safety or the environment.
4 The Commission shall terminate all or part of such
5 order upon a determination that the Secretary has
6 taken appropriate action to eliminate such risk.

7 “(2) FACILITY USE.—Notwithstanding any oth-
8 erwise applicable licensing requirement, the Sec-
9 retary may utilize any facility owned by the Federal
10 Government on the date of enactment of the Nuclear
11 Waste Policy Act of 1995 and within the boundaries
12 of the interim storage facility site, in connection
13 with an imminent and substantial endangerment to
14 public health and safety at the interim storage facil-
15 ity.

16 “(3) ACCEPTANCE OF FUEL AND WASTE.—Sub-
17 ject to paragraph (h), once the Secretary has
18 achieved the annual acceptance rate for spent nu-
19 clear fuel from civilian nuclear power reactors estab-
20 lished pursuant to the contracts executed prior to
21 the date of enactment of the Nuclear Waste Policy
22 Act of 1995, the Secretary shall accept, in an
23 amount not greater than 25 percent of the difference
24 between such acceptance rate and the annual accept-
25 ance rate for spent nuclear fuel from civilian nuclear

1 power reactors established under section 507(a), the
2 following radioactive materials:

3 “(A) spent nuclear fuel or high-level radio-
4 active waste of domestic origin from civilian nu-
5 clear power reactors that have permanently
6 ceased operation on the date of enactment of
7 the Nuclear Waste Policy Act of 1995;

8 “(B) spent nuclear fuel from foreign re-
9 search reactors, as necessary to promote non-
10 proliferation objectives; and

11 “(C) spent nuclear fuel, including spent
12 nuclear fuel from naval reactors, and high-level
13 radioactive waste from atomic energy defense
14 activities.

15 “(e) NATIONAL ENVIRONMENTAL POLICY ACT OF
16 1969.—

17 “(1) PRELIMINARY DECISIONMAKING ACTIVI-
18 TIES.—The Secretary’s activities under this section,
19 including the selection of a site for the interim stor-
20 age facility, the preparation and submittal of a li-
21 cense application and supporting documentation, the
22 construction and operation of any facility, and facil-
23 ity use pursuant to paragraph (d)(2) of this section
24 shall be considered preliminary decisionmaking ac-
25 tivities. No such activity shall require the prepara-

tion of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E) or (F) of such Act.

~~“(2) ENVIRONMENTAL IMPACT STATEMENT.—~~

~~“(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an environmental impact statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing and environmental impact statement, the Commission—~~

~~“(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and~~

~~“(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.~~

~~“(B) CONSIDERATIONS.—Such environmental impact statement shall not consider—~~

1 “(i) the need for the interim storage
2 facility, including any individual compo-
3 nent thereof;

4 “(ii) the time of the initial availability
5 of the interim storage facility;

6 “(iii) any alternatives to the storage
7 of spent nuclear fuel and high-level radio-
8 active waste at the interim storage facility;

9 “(iv) any alternatives to the site of
10 the facility as designated by the Secretary
11 in accordance with subsection (a);

12 “(v) any alternatives to the design cri-
13 teria for such facility or any individual
14 component thereof, as specified by the Sec-
15 retary in the license application; or

16 “(vi) the environmental impacts of the
17 storage of spent nuclear fuel and high-level
18 radioactive waste at the interim storage fa-
19 cility beyond the initial term of the license
20 or the term of the renewal period for which
21 a license renewal application is made.

22 “(f) JUDICIAL REVIEW.—Judicial review of the Com-
23 mission’s environmental impact statement under the Na-
24 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
25 et seq.) shall be consolidated with judicial review of the

1 Commission's licensing decision. No court shall have juris-
 2 diction to enjoin the construction or operation of the in-
 3 terim storage facility prior to its final decision on review
 4 of the Commission's licensing action.

5 “(g) WASTE CONFIDENCE.—The Secretary's obliga-
 6 tion to construct and operate the interim storage facility
 7 in accordance with this section and the Secretary's obliga-
 8 tion to develop an integrated management system in ac-
 9 cordance with the provisions of this Act, shall provide suf-
 10 ficient and independent grounds for any further findings
 11 by the Commission of reasonable assurance that spent nu-
 12 clear fuel and high-level radioactive waste will be disposed
 13 of safely and on a timely basis for purposes of the Com-
 14 mission's decision to grant or amend any license to operate
 15 any civilian nuclear power reactor under the Atomic En-
 16 ergy Act of 1954 (42 U.S.C. 2011, et seq.).

17 “(h) STORAGE OF OTHER SPENT NUCLEAR FUEL
 18 AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than
 19 18 months following the date of enactment of the Nuclear
 20 Waste Policy Act of 1995, the Commission shall, by rule,
 21 establish criteria for the storage in the interim storage fa-
 22 cility of fuel and waste listed in paragraph (d)(3) (A)
 23 through (C), to the extent such criteria are not included
 24 in regulations issued by the Commission and existing on
 25 the date of enactment of the Nuclear Waste Policy Act

1 of 1995. Following establishment of such criteria, the Sec-
 2 retary shall seek authority, as necessary, to store fuel and
 3 waste listed in paragraph (d)(3) (A) through (C) at the
 4 interim storage facility. None of the activities carried out
 5 pursuant to this paragraph shall delay, or otherwise affect,
 6 the development, construction, licensing, or operation of
 7 the interim storage facility.

8 “(i) SAVINGS CLAUSE.—The Commission shall, by
 9 rule, establish procedures for the licensing of any tech-
 10 nology for the dry storage of spent nuclear fuel by rule
 11 and without, to the maximum extent possible, the need
 12 for site-specific approvals by the Commission. Nothing in
 13 this Act shall affect any such procedures, or any licenses
 14 or approvals issued pursuant to such procedures in effect
 15 on the date of enactment.

16 **“SEC. 206. PERMANENT DISPOSAL.**

17 “(a) SITE CHARACTERIZATION.—

18 “(1) GUIDELINES.—The guidelines promul-
 19 gated by the Secretary and published at 10 CFR
 20 part 960 are annulled and revoked and the Sec-
 21 retary shall make no assumptions or conclusions
 22 about the licensability of the Yucca Mountain site as
 23 a repository by reference to such guidelines.

24 “(2) SITE CHARACTERIZATION ACTIVITIES.—

25 The Secretary shall carry out appropriate site char-

acterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

“(3) SCHEDULE.—Consistent with the schedules set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1995, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

“(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the reposi-

1 tory, the Secretary shall seek to maximize the capac-
 2 ity of the repository, in the most cost-effective man-
 3 ner, consistent with the need for disposal capacity.

4 “(b) LICENSING.—Upon the completion of any licens-
 5 ing proceeding for the first phase of the interim storage
 6 facility, the Commission shall amend its regulations gov-
 7 erning the disposal of spent nuclear fuel and high-level ra-
 8 dioactive waste in geologic repositories to the extent nec-
 9 essary to comply with this Act. Subject to subsection (c),
 10 such regulations shall provide for the licensing of the re-
 11 pository according to the following procedures:

12 “(1) CONSTRUCTION AUTHORIZATION.—The
 13 Commission shall grant the Secretary a construction
 14 authorization for the repository upon determining
 15 that there is reasonable assurance that spent nuclear
 16 fuel and high-level radioactive waste can be disposed
 17 of in the repository—

18 “(A) in conformity with the Secretary’s ap-
 19 plication, the provisions of this Act, and the
 20 regulations of the Commission;

21 “(B) without unreasonable risk to the
 22 health and safety of the public; and

23 “(C) consistent with the common defense
 24 and security.

1 “(2) LICENSE.—Following substantial comple-
2 tion of construction and the filing of any additional
3 information needed to complete the license applica-
4 tion, the Commission shall issue a license to dispose
5 of spent nuclear fuel and high-level radioactive waste
6 in the repository if the Commission determines that
7 the repository has been constructed and will
8 operate—

9 “(A) in conformity with the Secretary’s ap-
10 plication, the provisions of this Act, and the
11 regulations of the Commission;

12 “(B) without unreasonable risk to the
13 health and safety of the public; and

14 “(C) consistent with the common defense
15 and security.

16 “(3) CLOSURE.—After emplacing spent nuclear
17 fuel and high level radioactive waste in the reposi-
18 tory and collecting sufficient confirmatory data on
19 repository performance to reasonably confirm the
20 basis for repository closure consistent with the Com-
21 mission’s regulations applicable to the licensing of a
22 repository, as modified in accordance with this Act,
23 the Secretary shall apply to the Commission to
24 amend the license to permit permanent closure of
25 the repository. The Commission shall grant such li-

1 eense amendment upon finding that there is reason-
 2 able assurance that the repository can be perma-
 3 nently closed—

4 “(A) in conformity with the Secretary’s ap-
 5 plication to amend the license; the provisions of
 6 this Act; and the regulations of the Commis-
 7 sion;

8 “(B) without unreasonable risk to the
 9 health and safety of the public; and

10 “(C) consistent with the common defense
 11 and security.

12 “(4) POST-CLOSURE.—The Secretary shall take
 13 those actions necessary and appropriate at the
 14 Yucca Mountain site to prevent any activity at the
 15 site subsequent to repository closure that poses an
 16 unreasonable risk of—

17 “(A) breaching the repository’s engineered
 18 or geologic barriers; or

19 “(B) increasing the exposure of individual
 20 members of the public to radiation beyond the
 21 release standard established in subsection
 22 (d)(1).

23 “(e) MODIFICATION OF REPOSITORY LICENSING
 24 PROCEDURE.—The Commission’s regulations shall pro-
 25 vide for the modification of the repository licensing proce-

1 dure, as appropriate, in the event that the Secretary seeks
 2 a license to permit the emplacement in the repository, on
 3 a retrievable basis, of only that quantity of spent nuclear
 4 fuel or high-level radioactive waste that is necessary to
 5 provide the Secretary with sufficient confirmatory data on
 6 repository performance to reasonably confirm the basis for
 7 repository closure consistent with applicable regulations.

8 “(d) LICENSING STANDARDS.—Notwithstanding any
 9 other provision of law, the Administrator of the Environ-
 10 mental Protection Agency shall not promulgate, by rule
 11 or otherwise, standards for protection of the public from
 12 releases of radioactive materials or radioactivity from the
 13 repository and any such standards existing on the date
 14 of enactment of the Nuclear Waste Policy Act of 1995
 15 shall not be incorporated in the Commission’s licensing
 16 regulations. The Commission’s repository licensing deter-
 17 minations for the protection of the public shall be based
 18 solely on a finding whether the repository can be operated
 19 in conformance with the overall system performance
 20 standard established in paragraph (1)(A), applied in ac-
 21 cordance with the provisions of paragraph (1)(B). The
 22 Commission shall amend its regulations in accordance
 23 with subsection (b) to incorporate each of the following
 24 licensing standards:

25 “(1) STANDARD.—

1 “(A) ESTABLISHMENT OF OVERALL SYS-
2 TEM PERFORMANCE STANDARD.—The standard
3 for protection of the public from release of ra-
4 dioactive material or radioactivity from the re-
5 pository shall prohibit releases that would ex-
6 pose an average member of the general popu-
7 lation in the vicinity of the Yucca Mountain site
8 to an annual dose in excess of 100 millirems
9 unless the Commission determines by rule, con-
10 sidering, in conjunction with the requirements
11 of this section, and, as appropriate, the advice
12 provided by the National Research Council in
13 its report Technical Bases for Yucca Mountain
14 Standards prepared pursuant to section 801 of
15 the Energy Policy Act of 1992 (Public Law
16 102–486), that such standard would constitute
17 an unreasonable risk to health and safety and
18 establishes by rule another standard which will
19 protect health and safety. Such standard shall
20 constitute an overall system performance stand-
21 ard.

22 “(B) APPLICATION OF OVERALL SYSTEM
23 PERFORMANCE STANDARD.—

24 “(i) The licensing basis shall be a
25 finding by the Commission that it has rea-

1 sonable assurance that for the first 1,000
2 years following the commencement of re-
3 pository operations, the overall system per-
4 formance standard will be met based on a
5 deterministic and probabilistic evaluations,
6 as appropriate of the overall performance
7 of the disposal system.

8 “(ii) The Commission, to provide an
9 understanding of the long-term perform-
10 ance of the repository, for the period com-
11 mencing after the first 1,000 years of op-
12 eration of the repository and terminating
13 at 10,000 years after the commencement
14 of operation of the repository, shall analyze
15 the overall system performance through
16 the use of a probabilistic integrated per-
17 formance model that uses best estimate as-
18 sumptions, data, and methods.

19 “(iii) The Commission shall not con-
20 sider catastrophic events where the health
21 consequences of individual events them-
22 selves can be reasonably assumed to exceed
23 the health consequences due to the impact
24 of the events on repository performance.

1 “(iv) For the purpose of assessing
2 doses to individuals living in the future,
3 the Commission shall assume the individ-
4 uals live in a society with agricultural
5 practices, eating habits, and other relevant
6 social characteristics similar to those of
7 present-day U.S. society. Extremes in so-
8 cial behavior, eating habits, or other rel-
9 evant practices or characteristics shall not
10 be considered.

11 “(v) For the purpose of this section,
12 an average member of the general popu-
13 lation in the vicinity of the Yucca Moun-
14 tain site means a person whose physiology,
15 age, general health, agricultural practices,
16 eating habits, and social behavior represent
17 the average for persons living in the vicin-
18 ity of the site.

19 “(2) HUMAN INTRUSION.—The Commission
20 shall assume that, following repository closure, the
21 inclusion of engineered barriers and the Secretary’s
22 post-closure actions at the Yucca Mountain site in
23 accordance with subsection (b)(4), shall be sufficient
24 to—

1 “(A) prevent any human activity at the
2 site that poses an unreasonable risk of breach-
3 ing the repository’s engineered or geologic bar-
4 riers; and

5 “(B) prevent any increase in the exposure
6 of individual members of the public to radiation
7 beyond allowable limits as specified in para-
8 graph (1).

9 “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

10 “(1) SUBMISSION OF STATEMENT.—Construc-
11 tion and operation of the repository shall be consid-
12 ered a major Federal action significantly affecting
13 the quality of the human environment for purposes
14 of the National Environmental Policy Act of 1969
15 (42 U.S.C. 4321 et seq.). The Secretary shall submit
16 an environmental impact statement on the construc-
17 tion and operation of the repository to the Commis-
18 sion with the license application and shall supple-
19 ment such environmental impact statement as ap-
20 propriate.

21 “(2) CONSIDERATIONS.—For purposes of com-
22 plying with the requirements of the National Envi-
23 ronmental Policy Act of 1969 and this section, the
24 Secretary shall not consider in the environmental
25 impact statement the need for the repository, alter-

1 native sites or designs for the repository, the time of
2 the initial availability of the repository, or any alter-
3 natives to the isolation of spent nuclear fuel and
4 high-level radioactive waste in a repository.

5 “(3) ADOPTION BY COMMISSION.—The Sec-
6 retary’s environmental impact statement and any
7 supplements thereto shall, to the extent practicable,
8 be adopted by the Commission in connection with
9 the issuance by the Commission of a construction
10 authorization under subsection (b)(1), a license
11 under subsection (b)(2), or a license amendment
12 under subsection (b)(3). To the extent such state-
13 ment or supplement is adopted by the Commission,
14 such adoption shall be deemed to also satisfy the re-
15 sponsibilities of the Commission under the National
16 Environmental Policy Act of 1969, and no further
17 consideration shall be required, except that nothing
18 in this subsection shall affect any independent re-
19 sponsibilities of the Commission to protect the public
20 health and safety under the Atomic Energy Act of
21 1954. In any such statement or supplement pre-
22 pared with respect to the repository, the Commission
23 shall not consider the need for a repository, the time
24 of initial availability of the repository, alternate sites
25 or designs for the repository, or any alternatives to

1 the isolation of spent nuclear fuel and high-level ra-
 2 dioactive waste in a repository.

3 ~~“(f) JUDICIAL REVIEW.—No court shall have juris-~~
 4 ~~dition to enjoin issuance of the Commission repository~~
 5 ~~licensing regulations prior to its final decision on review~~
 6 ~~of such regulations.~~

7 **~~“SEC. 207. LAND WITHDRAWAL.~~**

8 ~~“(a) WITHDRAWAL AND RESERVATION.—~~

9 ~~“(1) WITHDRAWAL.—Subject to valid existing~~
 10 ~~rights, the interim storage facility site and the~~
 11 ~~Yucca Mountain site, as described in subsection (b),~~
 12 ~~are withdrawn from all forms of entry, appropri-~~
 13 ~~ation, and disposal under the public land laws, includ-~~
 14 ~~ing the mineral leasing laws, the geothermal leasing~~
 15 ~~laws, the material sale laws, and the mining laws.~~

16 ~~“(2) JURISDICTION.—Jurisdiction of any land~~
 17 ~~within the interim storage facility site and the Yucca~~
 18 ~~Mountain site managed by the Secretary of the Inte-~~
 19 ~~rior or any other Federal officer is transferred to the~~
 20 ~~Secretary.~~

21 ~~“(3) RESERVATION.—The interim storage facil-~~
 22 ~~ity site and the Yucca Mountain site are reserved for~~
 23 ~~the use of the Secretary for the construction and op-~~
 24 ~~eration, respectively, of the interim storage facility~~

1 and the repository and activities associated with the
2 purposes of this title.

3 ~~“(b) LAND DESCRIPTION.—~~

4 ~~“(1) BOUNDARIES.—The boundaries depicted~~
5 ~~on the map entitled ‘Interim Storage Facility Site~~
6 ~~Withdrawal Map,’ dated July 28, 1995, and on file~~
7 ~~with the Secretary, are established as the boundaries~~
8 ~~of the Interim Storage Facility site.~~

9 ~~“(2) BOUNDARIES.—The boundaries depicted~~
10 ~~on the map entitled ‘Yucca Mountain Site With-~~
11 ~~drawal Map,’ dated July 28, 1995, and on file with~~
12 ~~the Secretary, are established as the boundaries of~~
13 ~~the Yucca Mountain site.~~

14 ~~“(3) NOTICE AND MAPS.—Within 6 months of~~
15 ~~the date of the enactment of the Nuclear Waste Pol-~~
16 ~~icy Act of 1995, the Secretary shall—~~

17 ~~“(A) publish in the Federal Register a no-~~
18 ~~tice containing a legal description of the interim~~
19 ~~storage facility site; and~~

20 ~~“(B) file copies of the maps described in~~
21 ~~paragraph (1), and the legal description of the~~
22 ~~interim storage facility site with the Congress,~~
23 ~~the Secretary of the Interior, the Governor of~~
24 ~~Nevada, and the Archivist of the United States.~~

1 “(4) NOTICE AND MAPS.—Concurrent with the
2 Secretary’s application to the Commission for au-
3 thority to construct the repository, the Secretary
4 shall—

5 “(A) publish in the Federal Register a no-
6 tice containing a legal description of the Yucca
7 Mountain site; and

8 “(B) file copies of the maps described in
9 paragraph (2), and the legal description of the
10 Yucca Mountain site with the Congress, the
11 Secretary of the Interior, the Governor of Ne-
12 vada, and the Archivist of the United States.

13 “(5) CONSTRUCTION.—The maps and legal de-
14 scriptions of the interim storage facility site and the
15 Yucca Mountain site referred to in this subsection
16 shall have the same force and effect as if they were
17 included in this Act. The Secretary may correct cler-
18 ical and typographical errors in the maps and legal
19 descriptions and make minor adjustments in the
20 boundaries of the sites.

21 **“TITLE III—STATE AND LOCAL RELATIONS**

22 **“SEC. 301. FINANCIAL ASSISTANCE.**

23 “(a) GRANTS.—The Secretary shall make grants to
24 the State of Nevada and any affected unit of local govern-

1 ment for purposes of enabling such State or affected unit
2 of local government—

3 ~~“(1) to review activities taken with respect to~~
4 ~~the Yucca Mountain site for purposes of determining~~
5 ~~potential economic, social, public health and safety,~~
6 ~~and environmental impacts of the integrated man-~~
7 ~~agement system on such State, or affected unit of~~
8 ~~local government and its residents;~~

9 ~~“(2) to develop a request for impact assistance~~
10 ~~under subsection (c);~~

11 ~~“(3) to engage in any monitoring, testing, or~~
12 ~~evaluation activities with regard to such site;~~

13 ~~“(4) to provide information to Nevada residents~~
14 ~~regarding any activities of such State, the Secretary,~~
15 ~~or the Commission with respect to such site; and~~

16 ~~“(5) to request information from, and make~~
17 ~~comments and recommendations to, the Secretary~~
18 ~~regarding any activities taken with respect to such~~
19 ~~site.~~

20 ~~“(b) SALARY AND TRAVEL EXPENSES.—Any salary~~
21 ~~or travel expense that would ordinarily be incurred by the~~
22 ~~State of Nevada or any affected unit of local government~~
23 ~~may not be considered eligible for funding under this sec-~~
24 ~~tion.~~

25 ~~“(c) FINANCIAL AND TECHNICAL ASSISTANCE.—~~

1 “(1) ASSISTANCE REQUESTS.—The Secretary
 2 shall offer to provide financial and technical assist-
 3 ance to the State of Nevada, and any affected unit
 4 of local government requesting such assistance. Such
 5 assistance shall be designed to mitigate the impact
 6 on such State or affected unit of local government
 7 of the development of the integrated management
 8 system.

9 “(2) REPORT.—The State of Nevada and any
 10 affected unit of local government may request assist-
 11 ance under this section by preparing and submitting
 12 to the Secretary a report on the economic, social,
 13 public health and safety, and environmental impacts
 14 that are likely to result from activities of the inte-
 15 grated management system.

16 “(d) OTHER ASSISTANCE.—

17 “(1) TAXABLE AMOUNTS.—In addition to finan-
 18 cial assistance provided under this subsection, the
 19 Secretary shall grant to the State of Nevada and
 20 any affected unit of local government an amount
 21 each fiscal year equal to the amount such State or
 22 affected unit of local government, respectively, would
 23 receive if authorized to tax integrated management
 24 system activities, as such State or affected unit of
 25 local government taxes the non-Federal real property

1 and industrial activities occurring within such State
2 or affected unit of local government.

3 ~~“(2) TERMINATION.—Such grants shall con-~~
4 ~~tinue until such time as all such activities, develop-~~
5 ~~ment, and operations are terminated at such site.~~

6 ~~“(3) ASSISTANCE TO NEVADA AND UNITS OF~~
7 ~~LOCAL GOVERNMENT.—~~

8 ~~“(A) PERIOD.—The State of Nevada or~~
9 ~~any affected unit of local government may not~~
10 ~~receive any grant under paragraph (1) after the~~
11 ~~expiration of the 1-year period following the~~
12 ~~date on which the Secretary notifies the Gov-~~
13 ~~ernor and legislature of the State of Nevada of~~
14 ~~the termination of the operation of the inte-~~
15 ~~grated management system.~~

16 ~~“(B) ACTIVITIES.—The State of Nevada~~
17 ~~or any affected unit of local government may~~
18 ~~not receive any further assistance under this~~
19 ~~section if the integrated management system~~
20 ~~activities at such site are terminated by the~~
21 ~~Secretary or if such activities are permanently~~
22 ~~enjoined by any court.~~

23 ~~“SEC. 302. STATE CONSULTATION.~~

24 ~~“(a) PROVISION OF INFORMATION.—~~

1 “(1) ~~TIMELY AND COMPLETE INFORMATION.—~~

2 The Secretary, the Commission, and other agencies
3 involved in the construction, operation, or regulation
4 of any aspect of the integrated management system
5 in the State of Nevada shall provide to the Governor
6 and legislature of the State of Nevada timely and
7 complete information regarding determinations or
8 plans made with respect to the site characterization,
9 siting, development, design, licensing, construction,
10 operation, regulation, or decommissioning of the fa-
11 cilities associated with the integrated management
12 system.

13 “(2) ~~WRITTEN RESPONSE.—~~Upon written re-
14 quest for such information by the Governor or legis-
15 lature of the State of Nevada, the Secretary shall
16 provide a written response to such request within 30
17 days of the receipt of such request. Such response
18 shall provide the information requested or, in the al-
19 ternative, the reasons why the information cannot be
20 so provided. If the Secretary fails to so respond
21 within such 30 days, the Governor or legislature
22 may transmit a formal written objection to such fail-
23 ure to respond to the President. If the President or
24 Secretary fails to respond to such written request
25 within 30 days of the receipt by the President of

1 such formal written objection, the Secretary shall
2 immediately suspend all activities in such State au-
3 thorized by this Act, and shall not renew such activi-
4 ties until the Governor or legislature has received
5 the written response to such written request re-
6 quired by this subsection.

7 “(b) CONSULTATION AND COOPERATION.—The Sec-
8 retary shall consult and cooperate with the Governor and
9 legislature of the State of Nevada and with the Board of
10 Nye County Commissioners in an effort to resolve con-
11 cerns regarding public health and safety, environmental,
12 and economic impacts of any activities authorized by this
13 Act. In carrying out the Secretary’s duties under this Act,
14 the Secretary shall take such concerns into account to the
15 maximum extent feasible and as specified in written agree-
16 ments entered into under this section.

17 “(c) CONTINUATION.—Written agreements estab-
18 lished under section 117(c) of the Nuclear Waste Policy
19 Act of 1982 as constituted prior the date of enactment
20 of the Nuclear Waste Policy Act of 1995, shall continue
21 in effect subsequent to the date of enactment of the Nu-
22 clear Waste Policy Act of 1995.

23 “(d) ON-SITE REPRESENTATIVE.—The Secretary
24 shall offer to the State of Nevada and the unit of local
25 government within whose jurisdiction a site for an interim

1 storage facility or repository is located under this Act an
 2 opportunity to designate a representative to conduct onsite
 3 oversight activities at such site. Reasonable expenses of
 4 such representatives shall be paid by the Secretary.

5 **~~“SEC. 303. BENEFITS AGREEMENTS.~~**

6 ~~“(a) IN GENERAL.—~~

7 ~~“(1) SEPARATE AGREEMENTS.—The Secretary~~
 8 ~~shall offer to enter into separate agreements with~~
 9 ~~the State of Nevada, Nye County, Nevada, and Lin-~~
 10 ~~coln County, Nevada, concerning the integrated~~
 11 ~~management system.~~

12 ~~“(2) AGREEMENT WITH NEVADA.—Any agree-~~
 13 ~~ment with the State of Nevada under this section~~
 14 ~~shall be negotiated in consultation with any affected~~
 15 ~~units of local government in the State.~~

16 ~~“(3) AGREEMENT CONTENT.—Any agreement~~
 17 ~~shall contain such terms and conditions, including~~
 18 ~~such financial and institutional arrangements, as the~~
 19 ~~Secretary and agreement entity determine to be rea-~~
 20 ~~sonable and appropriate and shall contain such pro-~~
 21 ~~visions as are necessary to preserve any right to par-~~
 22 ~~ticipation or compensation of the State of Nevada or~~
 23 ~~affected units of local government, Nye County, Ne-~~
 24 ~~vada, and Lincoln County, Nevada.~~

1 “(b) ~~AMENDMENT.—An agreement entered into~~
 2 under subsection (a) may be amended only with the mu-
 3 tual consent of the parties to the amendment and termi-
 4 nated only in accordance with subsection (c).

5 “(c) ~~TERMINATION.—The Secretary shall terminate~~
 6 an agreement under subsection (a) if any element of the
 7 integrated management system may not be completed.

8 “(d) ~~LIMITATION.—Only 1 agreement each for the~~
 9 State of Nevada, Nye County, Nevada, and Lincoln Coun-
 10 ty, Nevada, may be in effect at any one time.

11 “(e) ~~JUDICIAL REVIEW.—Decisions of the Secretary~~
 12 under this section are not subject to judicial review.

13 **“SEC. 304. CONTENT OF AGREEMENTS.**

14 “(a) ~~IN GENERAL.—~~

15 “(1) ~~SCHEDULE.—In addition to the benefits to~~
 16 which the State of Nevada or affected units of local
 17 government are entitled under this title, the Sec-
 18 retary shall make payments to the party of a bene-
 19 fits agreement in accordance with the following
 20 schedule:

BENEFITS SCHEDULE

(amounts in millions)

Event	State	County
(A) Annual Payments prior to first receipt of spent fuel	\$5	\$2.5
(B) Upon first spent fuel receipt	\$10	\$5
(C) Annual payments after first spent fuel receipt until closure of facility	\$10	\$5

1 “(2) DEFINITIONS.—For purposes of this sec-
2 tion, the term—

3 “(A) ‘spent fuel’ means high-level radio-
4 active waste or spent nuclear fuel; and

5 “(B) ‘first spent fuel receipt’ does not in-
6 clude receipt of spent fuel or high-level radio-
7 active waste for purposes of testing or oper-
8 ational demonstration.

9 “(3) ANNUAL PAYMENTS.—Annual payments
10 prior to first spent fuel receipt under paragraph
11 (1)(A) shall be made on the date of execution of the
12 benefits agreement and thereafter on the anniver-
13 sary date of such execution. Annual payments after
14 the first spent fuel receipt until closure of the facil-
15 ity under paragraph (1)(C) shall be made on the an-
16 niversary date of such first spent fuel receipt.

17 “(4) REDUCTION.—If the first spent fuel pay-
18 ment under paragraph (1)(B) is made within 6
19 months after the last annual payment prior to the
20 receipt of spent fuel under paragraph (1)(A), such
21 first spent fuel payment under paragraph (1)(B)
22 shall be reduced by an amount equal to $\frac{1}{12}$ of such
23 annual payment under paragraph (1)(A) for each
24 full month less than 6 that has not elapsed since the
25 last annual payment for paragraph (1)(A).

1 “(5) LINCOLN COUNTY.—At the conclusion of
 2 the 15-year period after the Secretary’s first pay-
 3 ment to Lincoln County, Nevada, under the benefits
 4 schedule in paragraph (1), the payment of funds to
 5 such county shall terminate. Such funding as would
 6 have been allocated to Lincoln County shall be incor-
 7 porated into the payment to the State of Nevada
 8 under the benefits schedule. Any benefits agreement
 9 with the State of Nevada shall be modified to reflect
 10 the requirements of paragraph (7).

11 “(6) RESTRICTION.—Except as provided in
 12 paragraph (7), the Secretary may not restrict the
 13 purposes for which the payments under this section
 14 may be used.

15 “(7) TRANSFERS.—

16 “(A) UNITS OF LOCAL GOVERNMENT.—
 17 Any State receiving a payment under this sec-
 18 tion shall transfer an amount equal to not less
 19 than $\frac{1}{3}$ of the amount of such payment to af-
 20 fected units of local government of such State.

21 “(B) PLAN.—A plan for this transfer and
 22 appropriate allocation of such portion among
 23 such governments shall be included in the bene-
 24 fits agreement under section 303 covering such
 25 payments.

1 “(C) DISPUTE.—In the event of a dispute
 2 concerning such plan, the Secretary shall re-
 3 solve such dispute, consistent with this Act and
 4 applicable State law.

5 “(b) CONTENTS.—A benefits agreement under sec-
 6 tion 303 shall provide that—

7 “(1) the parties to the agreement shall share
 8 with one another information relevant to the licens-
 9 ing process for the interim storage facility or reposi-
 10 tory, as it becomes available;

11 “(2) the State or affected unit of local govern-
 12 ment that is party to such agreement may comment
 13 on the development of the integrated management
 14 system and on documents required under law or reg-
 15 ulations governing the effects of the system on pub-
 16 lic health and safety; and

17 “(3) the State or affected unit of local govern-
 18 ment may waive its rights, if any, to impact assist-
 19 ance under sections 301(a) and 301(c).

20 “(e) CONSTRUCTION.—The signature of the Sec-
 21 retary on a valid benefits agreement under section 303
 22 shall constitute a commitment by the United States to
 23 make payments in accordance with such agreement.

1 ~~“SEC. 305. REVIEW PANEL.~~

2 ~~“(a) IN GENERAL.—There shall be established a Re-~~
 3 ~~view Panel consisting of 8 members as follows:~~

4 ~~“(1) 1 member selected by the Governor of the~~
 5 ~~State of Nevada.~~

6 ~~“(2) 2 members selected by affected units of~~
 7 ~~local government.~~

8 ~~“(3) 1 member selected by the Board of Nye~~
 9 ~~County Commissioners.~~

10 ~~“(4) 1 member selected by the Board of Lincoln~~
 11 ~~County Commissioners.~~

12 ~~“(5) 1 member to represent persons paying fees~~
 13 ~~under section 401, to be selected by the Secretary.~~

14 ~~“(6) 1 member to represent other public inter-~~
 15 ~~ests, to be selected by the Secretary.~~

16 ~~“(7) 1 member to represent contract holders, to~~
 17 ~~be selected by contract holders.~~

18 ~~“(b) CHAIRMAN.—The chairman of the Review Panel~~
 19 ~~shall be selected by the Review Panel from its members.~~

20 ~~“(c) TERMS.—~~

21 ~~“(1) MEMBERS.—The members of the Review~~
 22 ~~Panel shall serve for terms of 4 years each.~~

23 ~~“(2) PER DIEM.—Members of the Review Panel~~
 24 ~~who are not full-time employees of the Federal Gov-~~
 25 ~~ernment, shall receive a per diem compensation for~~
 26 ~~each day spent conducting work of the Review~~

1 Panel, including their necessary travel or other ex-
 2 penses while engaged in the work of the Review
 3 Panel.

4 “(3) EXPENSES.—Expenses of the Panel shall
 5 be paid by the Secretary.

6 “(d) DUTIES.—The Review Panel shall—

7 “(1) advise the Secretary on matters relating to
 8 the integrated management system including issues
 9 relating to design, construction, operation, and de-
 10 commissioning of the system;

11 “(2) evaluate performance of the integrated
 12 management system as it considers appropriate;

13 “(3) recommend corrective actions to the Sec-
 14 retary;

15 “(4) assist in the presentation of State and
 16 local perspectives to the Secretary; and

17 “(5) participate in the planning for the review
 18 of preoperational data on environmental, demo-
 19 graphic, and socioeconomic conditions of the site and
 20 the local community.

21 “(e) INFORMATION.—The Secretary shall make avail-
 22 able promptly any information in the Secretary’s posses-
 23 sion requested by the Panel or its Chairman.

1 ~~“(f) FEDERAL ADVISORY COMMITTEE ACT.—The re-~~
2 ~~quirements of the Federal Advisory Committee Act shall~~
3 ~~not apply to a Review Panel established under this title.~~

4 ~~**“SEC. 306. CONSIDERATION IN SITING FACILITIES.**~~

5 ~~“The Secretary, in siting Federal research projects,~~
6 ~~shall give special consideration to proposals from the State~~
7 ~~of Nevada.~~

8 ~~**“SEC. 307. ACCEPTANCE OF BENEFITS.**~~

9 ~~“(a) CONSENT.—The acceptance or use of any of the~~
10 ~~benefits provided under this title, by the State of Nevada~~
11 ~~or any affected unit of local government thereof, shall not~~
12 ~~be deemed to be an expression of consent, express, or de-~~
13 ~~nied, either under the Constitution of the State or any~~
14 ~~law thereof, to the siting of an interim storage facility or~~
15 ~~repository in the State of Nevada, any provision of such~~
16 ~~Constitution or laws to the contrary notwithstanding.~~

17 ~~“(b) ARGUMENTS.—Neither the United States nor~~
18 ~~any other entity may assert any argument based on legal~~
19 ~~or equitable estoppel, or acquiescence, or waiver, or con-~~
20 ~~sensual involvement, in response to any decision by the~~
21 ~~State, to oppose the siting in Nevada of an interim storage~~
22 ~~facility or repository premised upon or related to the ac-~~
23 ~~ceptance or use of benefits under this title.~~

24 ~~“(c) LIABILITY.—No liability of any nature shall ac-~~
25 ~~crue to be asserted against the State of Nevada, its Gov-~~

1 error, any official thereof, or any official of any govern-
 2 mental unit thereof, premised solely upon the acceptance
 3 or use of benefits under this title.

4 **~~“SEC. 308. RESTRICTIONS ON USE OF FUNDS.~~**

5 ~~“None of the funding provided under this title may~~
 6 ~~be used—~~

7 ~~“(1) directly or indirectly to influence legislative~~
 8 ~~action on any matter pending before Congress or a~~
 9 ~~State legislature or for any lobbying activity as pro-~~
 10 ~~vided in section 1913 of title 18, United States~~
 11 ~~Code;~~

12 ~~“(2) for litigation purposes; and~~

13 ~~“(3) to support multistate efforts or other coal-~~
 14 ~~ition-building activities inconsistent with the purposes~~
 15 ~~of this Act.”~~

16 **~~“TITLE IV—FUNDING AND ORGANIZATION~~**

17 **~~“SEC. 401. PROGRAM FUNDING.~~**

18 ~~“(a) CONTRACTS.—~~

19 ~~“(1) AUTHORITY OF SECRETARY.—In the per-~~
 20 ~~formance of the Secretary’s functions under this~~
 21 ~~Act, the Secretary is authorized to enter into con-~~
 22 ~~tracts with any person who generates or holds title~~
 23 ~~to spent nuclear fuel or high level radioactive waste~~
 24 ~~of domestic origin for the acceptance of title and~~
 25 ~~possession, transportation, interim storage, and dis-~~

1 posal of such waste or spent fuel. Such contracts
2 shall provide for payment of fees to the Secretary
3 in the amounts set by the Secretary pursuant to
4 paragraphs (2) and (3). Subsequent to the date of
5 enactment of the Nuclear Waste Policy Act of 1995,
6 the contracts executed under section 302(a) of the
7 Nuclear Waste Policy Act of 1982 shall continue in
8 effect under this Act, provided that the Secretary
9 shall consent to an amendment to such contracts as
10 necessary to implement the provisions of this Act.

11 ~~“(2) ANNUAL FEES.—~~

12 ~~“(A) ELECTRICITY.—~~For electricity gen-
13 erated by civilian nuclear power reactors and
14 sold on or after the date of enactment of the
15 Nuclear Waste Policy Act of 1995, the fee
16 under paragraph (1) shall be equal to 1.0 mil
17 per kilowatt hour generated and sold.

18 ~~“(3) ONE-TIME FEE.—~~For spent nuclear fuel or
19 solidified high-level radioactive waste derived from
20 spent nuclear fuel, which fuel was used to generate
21 electricity in a civilian nuclear power reactor prior to
22 the application of the fee under paragraph (2) to
23 such reactor, the fee shall be the one-time fee estab-
24 lished by the Secretary pursuant to section
25 302(a)(3) of the Nuclear Waste Policy Act of 1982,

1 and incorporated in the contracts. Payment of such
 2 one-time fee prior to the date of enactment of the
 3 Nuclear Waste Policy Act of 1995 shall satisfy the
 4 obligation imposed under this paragraph. Any one-
 5 time fee paid and collected subsequent to the date
 6 of enactment of the Nuclear Waste Policy Act of
 7 1995 pursuant to the contracts, including any inter-
 8 est due pursuant to such contracts, shall be paid to
 9 the Nuclear Waste Fund. In paying such a fee, the
 10 person delivering spent nuclear fuel or high-level ra-
 11 dioactive wastes derived therefrom, to the Secretary
 12 shall have no further financial obligation to the Fed-
 13 eral Government for the long-term storage and per-
 14 manent disposal of such spent fuel or high-level ra-
 15 dioactive waste.

16 “(b) ~~ADVANCE CONTRACTING REQUIREMENT.—~~

17 ~~“(1) IN GENERAL.—~~

18 ~~“(A) LICENSE ISSUANCE AND RENEWAL.—~~

19 The Commission shall not issue or renew a li-
 20 cense to any person to use a utilization or pro-
 21 duction facility under the authority of section
 22 103 or 104 of the Atomic Energy Act of 1954
 23 (42 U.S.C. 2133, 2134) unless—

1 “(i) such person has entered into a
2 contract under subsection (a) with the Sec-
3 retary; or

4 “(ii) the Secretary affirms in writing
5 that such person is actively and in good
6 faith negotiating with the Secretary for a
7 contract under this section.

8 “(B) PRECONDITION.—The Commission,
9 as it deems necessary or appropriate, may re-
10 quire as a precondition to the issuance or re-
11 newal of a license under section 103 or 104 of
12 the Atomic Energy Act of 1954 (42 U.S.C.
13 2133, 2134) that the applicant for such license
14 shall have entered into an agreement with the
15 Secretary for the disposal of spent nuclear fuel
16 and high-level radioactive waste that may result
17 from the use of such license.

18 “(2) DISPOSAL IN REPOSITORY.—Except as
19 provided in paragraph (1), no spent nuclear fuel or
20 high-level radioactive waste generated or owned by
21 any person (other than a department of the United
22 States referred to in section 101 or 102 of title 5,
23 United States Code) may be disposed of by the Sec-
24 retary in the repository unless the generator or
25 owner of such spent fuel or waste has entered into

1 a contract under subsection (a) with the Secretary
2 by not later than the date on which such generator
3 owner commences generation of, or takes title to,
4 such spent fuel or waste.

5 “(3) ASSIGNMENT.—The rights and duties of a
6 party to a contract entered into under this section
7 may be assignable with transfer of title to the spent
8 nuclear fuel or high-level radioactive waste involved.

9 “(4) DISPOSAL CONDITIONS.—(A) No spent nu-
10 clear fuel or high-level radioactive waste generated
11 or owned by any department of the United States
12 referred to in section 101 or 102 of title 5, United
13 States Code, may be stored or disposed of by the
14 Secretary at an interim storage facility or repository
15 in the integrated management system developed
16 under this Act unless, each fiscal year, such depart-
17 ment funds its appropriate portion of the costs of
18 such storage and disposal as determined in the rule-
19 making conducted under section 403 of the Nuclear
20 Waste Policy Act of 1995.

21 “(B) No spent nuclear fuel from foreign re-
22 search reactors may be stored or disposed of by the
23 Secretary at an interim storage facility or repository
24 in the integrated management system developed
25 under the Nuclear Waste Policy Act of 1995 unless,

1 each fiscal year, the Federal Government pays the
 2 costs associated with such storage and disposal as
 3 determined in the rulemaking conducted under sec-
 4 tion 403 of the Nuclear Waste Policy Act of 1995.

5 ~~“(e) NUCLEAR WASTE FUND.—~~

6 ~~“(1) IN GENERAL.—~~The Nuclear Waste Fund
 7 established in the Treasury of the United States
 8 under section 302(e) of the Nuclear Waste Policy
 9 Act of 1982 shall continue in effect under this Act
 10 and shall consist of—

11 ~~“(A) the existing balance in the Nuclear~~
 12 ~~Waste Fund on the date of enactment of the~~
 13 ~~Nuclear Waste Policy Act of 1995; and~~

14 ~~“(B) all receipts, proceeds, and recoveries~~
 15 ~~realized under subsections (a), and (c)(3) subse-~~
 16 ~~quent to the date of enactment of the Nuclear~~
 17 ~~Waste Policy Act of 1995, which shall be depos-~~
 18 ~~ited in the Nuclear Waste Fund immediately~~
 19 ~~upon their realization.~~

20 ~~“(2) USE.—~~The Secretary may make expendi-
 21 tures from the Nuclear Waste Fund, subject to sub-
 22 sections (d) and (e), only for purposes of the inte-
 23 grated management system.

24 ~~“(3) ADMINISTRATION OF NUCLEAR WASTE~~
 25 ~~FUND.—~~

1 “(A) IN GENERAL.—The Secretary of the
2 Treasury shall hold the Nuclear Waste Fund
3 and, after consultation with the Secretary, an-
4 nually report to the Congress on the financial
5 condition and operations of the Nuclear Waste
6 Fund during the preceding fiscal year.

7 “(B) AMOUNTS IN EXCESS OF CURRENT
8 NEEDS.—If the Secretary determines that the
9 Nuclear Waste Fund contains at any time
10 amounts in excess of current needs, the Sec-
11 retary may request the Secretary of the Treas-
12 ury to invest such amounts, or any portion of
13 such amounts as the Secretary determines to be
14 appropriate, in obligations of the United
15 States—

16 “(i) having maturities determined by
17 the Secretary of the Treasury to be appro-
18 priate to the needs of the Nuclear Waste
19 Fund; and

20 “(ii) bearing interest at rates deter-
21 mined to be appropriate by the Secretary
22 of the Treasury, taking into consideration
23 the current average market yield on out-
24 standing marketable obligations of the
25 United States with remaining periods to

1 maturity comparable to the maturities of
2 such investments, except that the interest
3 rate on such investments shall not exceed
4 the average interest rate applicable to ex-
5 isting borrowings.

6 “(C) EXEMPTION.—Receipts, proceeds,
7 and recoveries realized by the Secretary under
8 this section, and expenditures of amounts from
9 the Nuclear Waste Fund, shall be exempt from
10 annual apportionment under the provisions of
11 subchapter II of chapter 15 of title 31, United
12 States Code.

13 “(d) PROHIBITION ON USE OF APPROPRIATIONS AND
14 NUCLEAR WASTE FUND.—The Secretary shall not make
15 expenditures from the Waste Fund or funds appropriated
16 pursuant to section 403, in connection with the develop-
17 ment of storage and transportation systems for spent nu-
18 clear fuel from civilian nuclear power reactors; provided
19 that nothing herein is intended to prevent the Secretary
20 from expending such funds in connection with the procure-
21 ment from private suppliers of such storage and transpor-
22 tation systems or transportation systems that are compat-
23 ible with contract holder facilities and the integrated man-
24 agement system.

25 “(e) APPROPRIATIONS.—

1 “(1) BUDGET.—The Secretary shall submit the
2 budget for implementation of the Secretary’s respon-
3 sibilities under this Act to the Office of Management
4 and Budget triennially along with the budget of the
5 Department of Energy submitted at such time in ac-
6 cordance with chapter 11 of title 31, United States
7 Code. The budget shall consist of the estimates
8 made by the Secretary of expenditures under this
9 Act and other relevant financial matters for the suc-
10 ceeding 3 fiscal years, and shall be included in the
11 budget of the United States Government. The Sec-
12 retary may make expenditures from the Waste
13 Fund, subject to appropriations, which shall remain
14 available until expended. Appropriations shall be
15 subject to triennial authorization.

16 “(2) APPROPRIATIONS FROM NUCLEAR WASTE
17 FUND.—Beginning in fiscal year 2006 and there-
18 after, funds appropriated from the Nuclear Waste
19 Fund shall not be subject to the allocations for dis-
20 cretionary spending under section 302(a) or 602(a)
21 of the Congressional Budget Act of 1974 or the ap-
22 propriations committees’ suballocations under sec-
23 tion 302(b) or 602(b) of such Act.

1 **“SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**
2 **AGEMENT.**

3 “(a) CONTINUATION OF THE OFFICE OF CIVILIAN
4 RADIOACTIVE WASTE MANAGEMENT.—The Office of Ci-
5 vilian Radioactive Waste Management established under
6 section 304(a) of the Nuclear Waste Policy Act of 1982
7 as constituted prior to the date of enactment of the Nu-
8 clear Waste Policy Act of 1995, shall continue in effect
9 subsequent to the date of enactment of the Nuclear Waste
10 Policy Act of 1995.

11 “(b) FUNCTIONS OF DIRECTOR.—The Director of the
12 Office shall be responsible for carrying out the functions
13 of the Secretary under this Act, subject to the general su-
14 pervision of the Secretary. The Director of the Office shall
15 be directly responsible to the Secretary.

16 **“SEC. 403. FEDERAL CONTRIBUTION.**

17 “(a) ALLOCATION.—No later than one year from the
18 date of enactment of the Nuclear Waste Policy Act of
19 1995, acting pursuant to section 553 of title 5, United
20 States Code, the Secretary shall issue a final rule estab-
21 lishing the appropriate portion of the costs of managing
22 spent nuclear fuel and high-level radioactive waste under
23 this Act allocable to the interim storage or permanent dis-
24 posal of spent nuclear fuel and high-level radioactive waste
25 from atomic energy defense activities and spent nuclear
26 fuel from foreign research reactors. The share of costs al-

1 locable to the management of spent nuclear fuel and high-
2 level radioactive waste from atomic energy defense activi-
3 ties and spent nuclear fuel from foreign research reactors
4 shall include—

5 “(1) an appropriate portion of the costs associ-
6 ated with research and development activities with
7 respect to development of an interim storage facility
8 and repository; and

9 “(2) as appropriate, interest on the principal
10 amounts due calculated by reference to the appro-
11 priate Treasury bill rate as if the payments were
12 made at a point in time consistent with the payment
13 dates for spent nuclear fuel and high-level radio-
14 active waste under the contracts.

15 “(b) APPROPRIATION REQUEST.—In addition to any
16 request for an appropriation from the Nuclear Waste
17 Fund, the Secretary shall request annual appropriations
18 from general revenues in amounts sufficient to pay the
19 costs of the management of spent nuclear fuel and high-
20 level radioactive waste from atomic energy defense activi-
21 ties as established under subsection (a).

22 “(c) REPORT.—In conjunction with the annual report
23 submitted to Congress under section 702, the Secretary
24 shall advise the Congress annually of the amount of spent
25 nuclear fuel and high-level radioactive waste from atomic

1 energy defense activities requiring management in the in-
 2 tegrated management system.

3 “(d) **AUTHORIZATION.**—There is authorized to be ap-
 4 propriated to the Secretary, from general revenues, for
 5 carrying out the purposes of this Act, such sums as may
 6 be necessary to pay the costs of the management of spent
 7 nuclear fuel and high-level radioactive waste from atomic
 8 energy defense activities as established under subsection
 9 (a).

10 **“SEC. 404. BUDGET PRIORITIES.**

11 “(a) **THE SECRETARY.**—For purposes of preparing
 12 annual requests for appropriations for the integrated man-
 13 agement system and allocating funds among competing re-
 14 quirements, the Secretary shall allocate funds to the com-
 15 ponents of the integrated management system in accord-
 16 ance with the following prioritization:

17 “(1) The licensing, construction, and operation
 18 of the interim storage facility under section 205 and
 19 development of the transportation capability under
 20 sections 202, 203 and 204 shall be accorded the
 21 highest priority.

22 “(2) The acquisition of rights of way and the
 23 construction and operation of the railroad under sec-
 24 tion 201 shall be accorded the next highest priority.

1 ~~“(3) The licensing, construction, and operation~~
 2 ~~of the repository under section 206 shall be accorded~~
 3 ~~the next highest priority.~~

4 ~~“(b) THE COMMISSION.—For purposes of preparing~~
 5 ~~annual requests for appropriations from the Nuclear~~
 6 ~~Waste Fund and allocating annual appropriations from~~
 7 ~~the Nuclear Waste Fund among competing requirements,~~
 8 ~~the Commission shall allocate funds in accordance with the~~
 9 ~~following prioritization:~~

10 ~~“(1) The issuance of regulations for and the li-~~
 11 ~~censing of an interim storage facility under section~~
 12 ~~205 and any associated storage and/or transport~~
 13 ~~systems to be used in the integrated management~~
 14 ~~system shall be accorded the highest priority.~~

15 ~~“(2) The licensing of the repository under sec-~~
 16 ~~tion 206 shall be accorded the next highest priority.~~

17 **“TITLE V—GENERAL AND**
 18 **MISCELLANEOUS PROVISIONS**

19 ~~“SEC. 501. COMPLIANCE WITH OTHER LAWS.~~

20 ~~“The actions authorized by the Nuclear Waste Policy~~
 21 ~~Act of 1995 shall be governed solely in accordance with~~
 22 ~~the provisions of the Atomic Energy Act, the Energy Reor-~~
 23 ~~ganization Act of 1974, the Hazardous Materials Trans-~~
 24 ~~portation Act, the Nuclear Waste Policy Act of 1995, and~~
 25 ~~the regulations issued thereunder. Such activities shall not~~

1 be subject to any other Federal, State, or local atomic en-
 2 ergy, environmental or land use laws, regulations or orders
 3 including, but not limited to, those requiring permits, li-
 4 censes, rights-of-way, certifications or authorizations, that
 5 would otherwise apply to such activities.

6 **“SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.**

7 “(a) JURISDICTION OF THE UNITED STATES COURTS
 8 OF APPEALS.—

9 “(1) ORIGINAL AND EXCLUSIVE JURISDIC-
 10 TION.—Except for review in the Supreme Court of
 11 the United States, and except as otherwise provided
 12 in this Act, the United States courts of appeals shall
 13 have original and exclusive jurisdiction over any civil
 14 action—

15 “(A) for review of any final decision or ac-
 16 tion of the Secretary, the President, or the
 17 Commission under this Act;

18 “(B) alleging the failure of the Secretary,
 19 the President, or the Commission to make any
 20 decision, or take any action, required under this
 21 Act;

22 “(C) challenging the constitutionality of
 23 any decision made, or action taken, under any
 24 provision of this Act; or

1 “(D) for review of any environmental im-
2 pact statement prepared or environmental as-
3 sessment pursuant to the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et
5 seq.) with respect to any action under this Act
6 or alleging a failure to prepare such statement
7 with respect to any such action.

8 “(2) VENUE.—The venue of any proceeding
9 under this section shall be in the judicial circuit in
10 which the petitioner involved resides or has its prin-
11 cipal office, or in the United States Court of Appeals
12 for the District of Columbia.

13 “(b) DEADLINE FOR COMMENCING ACTION.—A civil
14 action for judicial review described under subsection (a)(1)
15 may be brought no later than 180 days after the date of
16 the decision or action or failure to act involved, as the
17 case may be, except that if a party shows that he did not
18 know of the decision or action complained of (or of the
19 failure to act), and that a reasonable person acting under
20 the circumstances would not have known, such party may
21 bring a civil action no later than 180 days after the date
22 such party acquired actual or constructive knowledge or
23 such decision, action, or failure to act.

24 “(c) APPLICATION OF OTHER LAW.—The provisions
25 of this section relating to any matter shall apply in lieu

1 of the provisions of any other Act relating to the same
2 manner.

3 **“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND**
4 **TRANSSHIPMENTS.**

5 “(a) ORAL ARGUMENT.—In any Commission hearing
6 under section 189 of the Atomic Energy Act of 1954 (42
7 U.S.C. 2239) on an application for a license, or for an
8 amendment to an existing license, filed after January 7,
9 1983, to expand the spent nuclear fuel storage capacity
10 at the site of a civilian nuclear power reactor, through the
11 use of high-density fuel storage racks, fuel rod compac-
12 tion, the transshipment of spent nuclear fuel to another
13 civilian nuclear power reactor within the same utility sys-
14 tem, the construction of additional spent nuclear fuel pool
15 capacity or dry storage capacity, or by other means, the
16 Commission shall, at the request of any party, provide an
17 opportunity for oral argument with respect to any matter
18 which the Commission determines to be in controversy
19 among the parties. The oral argument shall be preceded
20 by such discovery procedures as the rules of the Commis-
21 sion shall provide. The Commission shall require each
22 party, including the Commission staff, to submit in writ-
23 ten form, at the time of the oral argument, a summary
24 of the facts, data, and arguments upon which such party
25 proposes to rely that are known at such time to such

1 party. Only facts and data in the form of sworn testimony
 2 or written submission may be relied upon by the parties
 3 during oral argument. Of the materials that may be sub-
 4 mitted by the parties during oral argument, the Commis-
 5 sion shall only consider those facts and data that are sub-
 6 mitted in the form of sworn testimony or written submis-
 7 sion.

8 “(b) ADJUDICATORY HEARING.—

9 “(1) DESIGNATION.—At the conclusion of any
 10 oral argument under subsection (a), the Commission
 11 shall designate any disputed question of fact, to-
 12 gether with any remaining questions of law, for reso-
 13 lution in an adjudicatory hearing only if it deter-
 14 mines that—

15 “(A) there is a genuine and substantial
 16 dispute of fact which can only be resolved with
 17 sufficient accuracy by the introduction of evi-
 18 dence in an adjudicatory hearing; and

19 “(B) the decision of the Commission is
 20 likely to depend in whole or in part on the reso-
 21 lution of such dispute.

22 “(2) DETERMINATION.—In making a deter-
 23 mination under this subsection, the Commission—

24 “(A) shall designate in writing the specific
 25 facts that are in genuine and substantial dis-

1 pute, the reason why the decision of the agency
2 is likely to depend on the resolution of such
3 facts, and the reason why an adjudicatory hear-
4 ing is likely to resolve the dispute; and

5 “(B) shall not consider—

6 “(i) any issue relating to the design,
7 construction, or operation of any civilian
8 nuclear power reactor already licensed to
9 operate at such site, or any civilian nuclear
10 power reactor to which a construction per-
11 mit has been granted at such site, unless
12 the Commission determines that any such
13 issue substantially affects the design, con-
14 struction, or operation of the facility or ac-
15 tivity for which such license application,
16 authorization, or amendment is being con-
17 sidered; or

18 “(ii) any siting or design issue fully
19 considered and decided by the Commission
20 in connection with the issuance of a con-
21 struction permit or operating license for a
22 civilian nuclear power reactor at such site,
23 unless—

24 “(I) such issue results from any
25 revision of siting or design criteria by

1 the Commission following such deci-
2 sion; and

3 “(H) the Commission determines
4 that such issue substantially affects
5 the design, construction, or operation
6 of the facility or activity for which
7 such license application, authorization,
8 or amendment is being considered.

9 “(3) APPLICATION.—The provisions of para-
10 graph (2)(B) shall apply only with respect to li-
11 censes, authorizations, or amendments to licenses or
12 authorizations, applied for under the Atomic Energy
13 Act of 1954 (42 U.S.C. 2011 et seq.) before Decem-
14 ber 31, 2005.

15 “(4) CONSTRUCTION.—The provisions of this
16 section shall not apply to the first application for a
17 license or license amendment received by the Com-
18 mission to expand onsite spent fuel storage capacity
19 by the use of a new technology not previously ap-
20 proved for use at any nuclear power plant by the
21 Commission.

22 “(c) JUDICIAL REVIEW.—No court shall hold unlaw-
23 ful or set aside a decision of the Commission in any pro-
24 ceeding described in subsection (a) because of a failure

1 by the Commission to use a particular procedure pursuant
 2 to this section unless—

3 “(1) an objection to the procedure used was
 4 presented to the Commission in a timely fashion or
 5 there are extraordinary circumstances that excuse
 6 the failure to present a timely objection; and

7 “(2) the court finds that such failure has pre-
 8 cluded a fair consideration and informed resolution
 9 of a significant issue of the proceeding taken as a
 10 whole.

11 **“SEC. 504. SITING A SECOND REPOSITORY.**

12 “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-
 13 retary may not conduct site-specific activities with respect
 14 to a second repository unless Congress has specifically au-
 15 thorized and appropriated funds for such activities.

16 “(b) REPORT.—The Secretary shall report to the
 17 President and to Congress on or after January 1, 2007,
 18 but not later than January 1, 2010, on the need for a
 19 second repository.

20 **“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**
 21 **RADIOACTIVE WASTE SITE CLOSURE.**

22 “(a) FINANCIAL ARRANGEMENTS.—

23 “(1) STANDARDS AND INSTRUCTIONS.—The
 24 Commission shall establish by rule, regulation, or
 25 order, after public notice, and in accordance with

1 section 181 of the Atomic Energy Act of 1954 (42
2 U.S.C. 2231), such standards and instructions as
3 the Commission may deem necessary or desirable to
4 ensure in the case of each license for the disposal
5 of low-level radioactive waste that an adequate bond,
6 surety, or other financial arrangement (as deter-
7 mined by the Commission) will be provided by a li-
8 censee to permit completion of all requirements es-
9 tablished by the Commission for the decontamina-
10 tion, decommissioning, site closure, and reclamation
11 of sites, structures, and equipment used in conjunc-
12 tion with such low-level radioactive waste. Such fi-
13 nancial arrangements shall be provided and ap-
14 proved by the Commission, or, in the case of sites
15 within the boundaries of any agreement State under
16 section 274 of the Atomic Energy Act of 1954 (42
17 U.S.C. 2021), by the appropriate State or State en-
18 tity, prior to issuance of licenses for low-level radio-
19 active waste disposal or, in the case of licenses in
20 effect on January 7, 1983, prior to termination of
21 such licenses.

22 “(2) BONDING, SURETY, OR OTHER FINANCIAL
23 ARRANGEMENTS.—If the Commission determines
24 that any long-term maintenance or monitoring, or
25 both, will be necessary at a site described in para-

graph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

“(b) TITLE AND CUSTODY.—

“(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

“(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

“(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

1 “(C) Federal ownership and management
 2 of such site is necessary or desirable in order to
 3 protect the public health and safety; and the
 4 environment.

5 “(2) PROTECTION.—If the Secretary assumes
 6 title and custody of any such waste and land under
 7 this subsection, the Secretary shall maintain such
 8 waste and land in a manner that will protect the
 9 public health and safety; and the environment.

10 “(c) SPECIAL SITES.—If the low-level radioactive
 11 waste involved is the result of a licensed activity to recover
 12 zirconium, hafnium, and rare earths from source material,
 13 the Secretary, upon request of the owner of the site in-
 14 volved, shall assume title and custody of such waste and
 15 the land on which it is disposed when such site has been
 16 decontaminated and stabilized in accordance with the re-
 17 quirements established by the Commission and when such
 18 owner has made adequate financial arrangements ap-
 19 proved by the Commission for the long-term maintenance
 20 and monitoring of such site.

21 **“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING**
 22 **AUTHORIZATION.**

23 “The Commission is authorized and directed to pro-
 24 mulgate regulations, or other appropriate regulatory guid-
 25 ance, for the training and qualifications of civilian nuclear

1 power plant operators, supervisors, technicians, and other
 2 appropriate operating personnel. Such regulations or guid-
 3 ance shall establish simulator training requirements for
 4 applicants for civilian nuclear power plant operator li-
 5 censes and for operator requalification programs; require-
 6 ments governing Commission administration of
 7 requalification examinations; requirements for operating
 8 tests at civilian nuclear power plant simulators, and in-
 9 structional requirements for civilian nuclear power plant
 10 licensee personnel training programs.

11 **~~“SEC. 507. ACCEPTANCE SCHEDULE.~~**

12 ~~“(a) The acceptance schedule shall be implemented~~
 13 ~~in accordance with the following:~~

14 ~~“(1) Acceptance priority ranking shall be deter-~~
 15 ~~mined by the Department’s annual acceptance prior-~~
 16 ~~ity ranking report.~~

17 ~~“(2) The Secretary’s spent fuel acceptance rate~~
 18 ~~shall be no less than the following: 1,200 MTU in~~
 19 ~~1998 and 1,200 MTU in 1999; 2,000 MTU in 2000~~
 20 ~~and 2000 MTU in 2001; 2,700 MTU in 2002; and~~
 21 ~~3,000 MTU thereafter.~~

22 ~~“(b)(1) If the Secretary is unable to begin acceptance~~
 23 ~~by January 31, 1998, at the rates specified in paragraph~~
 24 ~~(a), or if the cumulative amount accepted in any year~~
 25 ~~thereafter is less than that which would have been accept-~~

1 ed under the acceptance rate specified in paragraph (a);
 2 the Secretary shall, as a mitigation measure, adjust the
 3 acceptance schedule upward such that within 5 years of
 4 the start of acceptance by the Secretary—

5 “(A) the total quantity accepted by the Sec-
 6 retary is consistent with the total quantity that the
 7 Secretary would have accepted if the Secretary had
 8 began acceptance in 1998, and

9 “(B) thereafter the acceptance rate is equiva-
 10 lent to the rate that would be in place pursuant to
 11 paragraph (a) above if the Secretary had commenced
 12 acceptance in 1998.

13 “(2) Nothing in this subsection is intended to or shall
 14 be construed to modify the Secretary’s obligation to com-
 15 mence acceptance of spent nuclear fuel from civilian nu-
 16 clear power reactors by January 31, 1998 in accordance
 17 with paragraph (a).

18 **“SEC. 508. SUBSEABED AND OCEAN WATER DISPOSAL.**

19 “Notwithstanding any other provision of law—

20 “(1) the subseabed or ocean water disposal of
 21 spent nuclear fuel or high-level radioactive waste is
 22 prohibited; and

23 “(2) no funds shall be obligated for any activity
 24 relating to the subseabed or ocean water disposal of
 25 spent nuclear fuel or high-level radioactive waste.

1 **~~“SEC. 509. ENVIRONMENTAL REQUIREMENTS.~~**

2 ~~“Notwithstanding any other law or regulation, the~~
 3 ~~obligations of the Secretary the Commission pursuant to~~
 4 ~~the National Environmental Policy Act of 1969 (42 U.S.C.~~
 5 ~~4321 et.seq.) in connection with the siting, design, licens-~~
 6 ~~ing, construction or operation of any component of the in-~~
 7 ~~tegrated management system are as set forth in this Act~~
 8 ~~and no further actions other than those specified are re-~~
 9 ~~quired to meet the Secretary’s or the Commission’s obliga-~~
 10 ~~tions under such Act.~~

11 **~~“TITLE VI—NUCLEAR WASTE TECHNICAL~~**
 12 **~~REVIEW BOARD~~**

13 **~~“SEC. 601. DEFINITIONS.~~**

14 ~~“For purposes of this title—~~

15 ~~“(1) CHAIRMAN.—The term ‘Chairman’ means~~
 16 ~~the Chairman of the Nuclear Waste Technical Re-~~
 17 ~~view Board.~~

18 ~~“(2) BOARD.—The term ‘Board’ means the Nu-~~
 19 ~~clear Waste Technical Review Board continued~~
 20 ~~under section 602.~~

21 **~~“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.~~**

22 ~~“(a) CONTINUATION OF THE NUCLEAR WASTE~~
 23 ~~TECHNICAL REVIEW BOARD.—The Nuclear Waste Tech-~~
 24 ~~nical Review Board, established under section 502(a) of~~
 25 ~~the Nuclear Waste Policy Act of 1982 as constituted prior~~
 26 ~~to the date of enactment of the Nuclear Waste Policy Act~~

1 of 1995, shall continue in effect subsequent to the date
 2 of enactment of the Nuclear Waste Policy Act of 1995.

3 ~~“(b) MEMBERS.—~~

4 ~~“(1) NUMBER.—~~The Board shall consist of 11
 5 members who shall be appointed by the President
 6 not later than 90 days after December 22, 1987,
 7 from among persons nominated by the National
 8 Academy of Sciences in accordance with paragraph
 9 ~~(3).~~

10 ~~“(2) CHAIR.—~~The President shall designate a
 11 member of the Board to serve as Chairman.

12 ~~“(3) NATIONAL ACADEMY OF SCIENCES.—~~

13 ~~“(A) NOMINATIONS.—~~The National Acad-
 14 emy of Sciences shall, not later than 90 days
 15 after December 22, 1987, nominate not less
 16 than 22 persons for appointment of the Board
 17 from among persons who meet the qualifica-
 18 tions described in subparagraph (C).

19 ~~“(B) VACANCIES.—~~The National Academy
 20 of Sciences shall nominate not less than 2 per-
 21 sons to fill any vacancy on the Board from
 22 among persons who meet the qualifications de-
 23 scribed in subparagraph (C).

24 ~~“(C) NOMINEES.—~~

1 “(i) Each person nominated for ap-
2 pointment to the Board shall be—

3 “(I) eminent in a field of science
4 or engineering, including environ-
5 mental sciences; and

6 “(II) selected solely on the basis
7 of established records of distinguished
8 service.

9 “(ii) The membership of the Board
10 shall be representatives of the broad range
11 of scientific and engineering disciplines re-
12 lated to activities under this title.

13 “(iii) No person shall be nominated
14 for appointment to the Board who is an
15 employee of—

16 “(I) the Department of Energy;

17 “(II) a national laboratory under
18 contract with the Department of En-
19 ergy; or

20 “(III) an entity performing spent
21 nuclear fuel or high-level radioactive
22 waste activities under contract with
23 the Department of Energy.

1 “(4) VACANCIES.—Any vacancy on the Board
2 shall be filled by the nomination and appointment
3 process described in paragraphs (1) and (3).

4 “(5) TERMS.—Members of the Board shall be
5 appointed for terms of 4 years; each such term to
6 commence 120 days after December 22, 1987, ex-
7 cept that of the 11 members first appointed to the
8 Board, 5 shall serve for 2 years and 6 shall serve
9 for 4 years; to be designated by the President at the
10 time of appointment.

11 **“SEC. 603. FUNCTIONS.**

12 “The Board shall evaluate the technical and scientific
13 validity of activities undertaken by the Secretary after De-
14 cember 22, 1987, including—

15 “(1) site characterization activities; and

16 “(2) activities relating to the packaging or
17 transportation of spent nuclear fuel or high-level ra-
18 dioactive waste.

19 **“SEC. 604. INVESTIGATORY POWERS.**

20 “(a) HEARINGS.—Upon request of the Chairman or
21 a majority of the members of the Board, the Board may
22 hold such hearings; sit and act at such times and places;
23 take such testimony; and receive such evidence; as the
24 Board considers appropriate. Any member of the Board

1 may administer oaths or affirmations to witnesses appear-
 2 ing before the Board.

3 ~~“(b) PRODUCTION OF DOCUMENTS.—~~

4 ~~“(1) RESPONSE TO INQUIRIES.—~~Upon the re-
 5 quest of the Chairman or a majority of the members
 6 of the Board, and subject to existing law, the Sec-
 7 retary (or any contractor of the Secretary) shall pro-
 8 vide the Board with such records, files, papers, data,
 9 or information as may be necessary to respond to
 10 any inquiry of the Board under this title.

11 ~~“(2) EXTENT.—~~Subject to existing law, infor-
 12 mation obtainable under paragraph (1) shall not be
 13 limited to final work products of the Secretary, but
 14 shall include drafts of such products and documenta-
 15 tion of work in progress.

16 **~~“SEC. 605. COMPENSATION OF MEMBERS.~~**

17 ~~“(a) IN GENERAL.—~~Each member of the Board shall
 18 be paid at the rate of pay payable for level III of the Exec-
 19 utive Schedule for each day (including travel time) such
 20 member is engaged in the work of the Board.

21 ~~“(b) TRAVEL EXPENSES.—~~Each member of the
 22 Board may receive travel expenses, including per diem in
 23 lieu of subsistence, in the same manner as is permitted
 24 under sections 5702 and 5703 of title 5, United States
 25 Code.

1 ~~“SEC. 606. STAFF.~~

2 ~~“(a) CLERICAL STAFF.—~~

3 ~~“(1) AUTHORITY OF CHAIRMAN.—Subject to~~
 4 ~~paragraph (2), the Chairman may appoint and fix~~
 5 ~~the compensation of such clerical staff as may be~~
 6 ~~necessary to discharge the responsibilities of the~~
 7 ~~Board.~~

8 ~~“(2) PROVISIONS OF TITLE 5.—Clerical staff~~
 9 ~~shall be appointed subject to the provisions of title~~
 10 ~~5, United States Code, governing appointments in~~
 11 ~~the competitive service, and shall be paid in accord-~~
 12 ~~ance with the provisions of chapter 51 and sub-~~
 13 ~~chapter III of chapter 3 of such title relating to clas-~~
 14 ~~sification and general schedule pay rates.~~

15 ~~“(b) PROFESSIONAL STAFF.—~~

16 ~~“(1) AUTHORITY OF CHAIRMAN.—Subject to~~
 17 ~~paragraphs (2) and (3), the Chairman may appoint~~
 18 ~~and fix the compensation of such professional staff~~
 19 ~~as may be necessary to discharge the responsibilities~~
 20 ~~of the Board.~~

21 ~~“(2) NUMBER.—Not more than 10 professional~~
 22 ~~staff members may be appointed under this sub-~~
 23 ~~section.~~

24 ~~“(3) TITLE 5.—Professional staff members may~~
 25 ~~be appointed without regard to the provisions of title~~
 26 ~~5, United States Code, governing appointments in~~

1 the competitive service, and may be paid without re-
 2 gard to the provisions of chapter 51 and subchapter
 3 III of chapter 53 of such title relating to classifica-
 4 tion and general schedule pay rates, except that no
 5 individual so appointed may receive pay in excess of
 6 the annual rate of basic pay payable for GS-18 of
 7 the general schedule.

8 **~~“SEC. 607. SUPPORT SERVICES.~~**

9 ~~“(a) GENERAL SERVICES.—To the extent permitted~~
 10 ~~by law and requested by the Chairman, the Administrator~~
 11 ~~of General Services shall provide the Board with necessary~~
 12 ~~administrative services, facilities, and support on a reim-~~
 13 ~~bursable basis.~~

14 ~~“(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY~~
 15 ~~ASSESSMENT SERVICES.—The Comptroller General, the~~
 16 ~~Librarian of Congress, and the Director of the Office of~~
 17 ~~Technology Assessment shall, to the extent permitted by~~
 18 ~~law and subject to the availability of funds, provide the~~
 19 ~~Board with such facilities, support, funds and services, in-~~
 20 ~~cluding staff, as may be necessary for the effective per-~~
 21 ~~formance of the functions of the Board.~~

22 ~~“(c) ADDITIONAL SUPPORT.—Upon the request of~~
 23 ~~the Chairman, the Board may secure directly from the~~
 24 ~~head of any department or agency of the United States~~
 25 ~~information necessary to enable it to carry out this title.~~

1 “(d) **MAILS.**—The Board may use the United States
2 mails in the same manner and under the same conditions
3 as other departments and agencies of the United States.

4 “(e) **EXPERTS AND CONSULTANTS.**—Subject to such
5 rules as may be prescribed by the Board, the Chairman
6 may procure temporary and intermittent services under
7 section 3109(b) of title 5 of the United States Code, but
8 at rates for individuals not to exceed the daily equivalent
9 of the maximum annual rate of basic pay payable for GS—
10 18 of the General Schedule.

11 **“SEC. 608. REPORT.**

12 “The Board shall report not less than 2 times per
13 year to Congress and the Secretary its findings, conclu-
14 sions, and recommendations.

15 **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

16 “There are authorized to be appropriated for expendi-
17 tures such sums as may be necessary to carry out the pro-
18 visions of this title.

19 **“SEC. 610. TERMINATION OF THE BOARD.**

20 “The Board shall cease to exist not later than one
21 year after the date on which the Secretary begins disposal
22 of spent nuclear fuel or high-level radioactive waste in the
23 repository.

1 **~~“TITLE VII—MANAGEMENT REFORM~~**

2 **~~“SEC. 701. MANAGEMENT REFORM INITIATIVES.~~**

3 ~~“(a) IN GENERAL.—The Secretary is directed to take~~
 4 ~~actions as necessary to improve the management of the~~
 5 ~~civilian radioactive waste management program to ensure~~
 6 ~~that the program is operated, to the maximum extent~~
 7 ~~practicable, in like manner as a private business. Notwith-~~
 8 ~~standing any other provision of law, the civilian radio-~~
 9 ~~active waste management program is not subject to laws~~
 10 ~~or regulations concerning the civil service as described in~~
 11 ~~this title.~~

12 ~~“(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE~~
 13 ~~MANAGEMENT EMPLOYEES.—~~

14 ~~“(1) COMPENSATION.—The Secretary shall,~~
 15 ~~without regard to section 5301 of title 5, United~~
 16 ~~States Code, fix the compensation of the Director~~
 17 ~~and the Deputy Director of Office of Civilian Radio-~~
 18 ~~active Waste Management. The Director shall, with-~~
 19 ~~out regard to section 5301 of title 5, United States~~
 20 ~~Code, fix the compensation for all other Federal em-~~
 21 ~~ployees assigned to the Office of Civilian Radioactive~~
 22 ~~Waste Management, define their duties, and provide~~
 23 ~~for a system of organization to fix responsibility and~~
 24 ~~promote efficiency. The Deputy Director may be re-~~
 25 ~~moved at the Director’s discretion without regard to~~

1 any laws, rules, or regulations concerning personnel
2 actions in the Civil Service System or Senior Execu-
3 tive Service. Any other Federal employee assigned to
4 the Office of Civilian Radioactive Waste Manage-
5 ment may be removed at the discretion of the Sec-
6 retary or Director without regard to any laws, rules,
7 or regulations concerning personnel actions in the
8 Civil Service System or Senior Executive Service.
9 The Secretary shall ensure that Federal employees
10 assigned to the Office of Civilian Radioactive Waste
11 Management are appointed, promoted, and assigned
12 on the basis of merit and fitness. Other personnel
13 actions shall be consistent with the principles of fair-
14 ness and due process specified in title 5 of the
15 United States Code, but without regard to those
16 provisions of said title governing appointments and
17 other personnel actions in the competitive service.

18 “(2) APPLICATION.—The provisions of para-
19 graph (1) shall not apply to Federal employees who
20 may be, from time to time, temporarily assigned to
21 the Office of Civilian Radioactive Waste Manage-
22 ment. The use of temporary assignment of Federal
23 employees to the Office of Civilian Radioactive
24 Waste Management shall not be used in any manner

1 to circumvent the full application of the provisions
2 in paragraph (1).

3 “(3) TRANSITION.—The Secretary shall transi-
4 tion the Federal employees assigned to the Office of
5 Civilian Radioactive Waste Management to the pro-
6 visions of this section in an orderly manner allowing
7 for the development of the needed procedures. Under
8 no circumstances shall this transition take longer
9 than 6 months from the date of enactment of this
10 section.

11 “(4) RETENTION OF BENEFITS.—Federal em-
12 ployees assigned to the Office of Civilian Radioactive
13 Waste Management and transitioned to the provi-
14 sions of this section shall retain employment benefits
15 in effect immediately prior to the transition date.
16 Transitioned employees will continue in the Civil
17 Service System’s retirement system.

18 “(e) AUDITS.—

19 “(1) STANDARD.—The Office of Civilian Radio-
20 active Waste Management, its contractors, and sub-
21 contractors at all tiers, shall conduct, or have con-
22 ducted, audits and examinations of their operations
23 in accordance with the usual and customary prac-
24 tices of private corporations engaged in large nuclear

1 construction projects consistent with its role in the
2 program.

3 “(2) TIME.—The management practices and
4 performances of the Office of Civilian Radioactive
5 Waste Management shall be audited every 5 years
6 by an independent management consulting firm with
7 significant experience in similar audits of private
8 corporations engaged in large nuclear construction
9 projects. The first such audit shall be conducted 5
10 years after the enactment of the Nuclear Waste Pol-
11 icy Act of 1995.

12 “(3) COMPTROLLER GENERAL.—The Comptrol-
13 ler General of the United States shall annually make
14 an audit of the Office, in accordance with such regu-
15 lations as the Comptroller General may prescribe.
16 The Comptroller General shall have access to such
17 books, records, accounts, and other materials of the
18 Office as the Comptroller General determines to be
19 necessary for the preparation of such audit. The
20 Comptroller General shall submit to the Congress a
21 report on the results of each audit conducted under
22 this section.

23 “(4) TIME.—No audit contemplated by this
24 subsection shall take longer than 30 days to con-
25 duct. An audit report shall be issued in final form

1 no longer than 60 days after the audit is com-
2 menced.

3 ~~“(5) PUBLIC DOCUMENTS.—All audit reports~~
4 ~~shall be public documents and available to any indi-~~
5 ~~vidual upon request.~~

6 ~~“(d) VALUE ENGINEERING.—The Secretary shall~~
7 ~~create a value engineering function within the Office of~~
8 ~~Civilian Radioactive Waste Management that reports di-~~
9 ~~rectly to the Director, which shall carry out value engi-~~
10 ~~neering functions in accordance with the usual and cus-~~
11 ~~tomary practices of private corporations engaged in large~~
12 ~~nuclear construction projects.~~

13 ~~“(e) SITE CHARACTERIZATION.—The Secretary shall~~
14 ~~employ, on an ongoing basis, integrated performance mod-~~
15 ~~eling to identify appropriate parameters for the remaining~~
16 ~~site characterization effort and to eliminate studies of pa-~~
17 ~~rameters that are shown not to affect long-term repository~~
18 ~~performance.~~

19 **~~“SEC. 702. REPORTING.~~**

20 ~~“(a) INITIAL REPORT.—Within 180 days of enact-~~
21 ~~ment of this section, the Secretary shall report to Con-~~
22 ~~gress on its planned actions for implementing the provi-~~
23 ~~sions of this Act, including the development of the Inte-~~
24 ~~grated Waste Management System. Such report shall in-~~
25 ~~clude—~~

1 “(1) an analysis of the Secretary’s progress in
2 meeting its statutory and contractual obligation to
3 accept title to, possession of, and delivery of spent
4 nuclear fuel and high-level radioactive waste begin-
5 ning no later than January 31, 1998, and in accord-
6 ance with the acceptance schedule;

7 “(2) a detailed schedule and timeline showing
8 each action that the Secretary intends to take to
9 meet the Secretary’s obligations under this Act and
10 the contracts;

11 “(3) a detailed description of the Secretary’s
12 contingency plans in the event that the Secretary is
13 unable to meet the planned schedule and timeline;
14 and

15 “(4) an analysis by the Secretary of its funding
16 needs for fiscal years 1996 through 2001.

17 “(b) ANNUAL REPORTS.—On each anniversary of the
18 submittal of the report required by subsection (a), the Sec-
19 retary shall make annual reports to the Congress for the
20 purpose of updating the information contained in such re-
21 port. The annual reports shall be brief and shall notify
22 the Congress of—

23 “(1) any modifications to the Secretary’s sched-
24 ule and timeline for meeting its obligations under
25 this Act;

1 ~~“(2) the reasons for such modifications, and the~~
 2 ~~status of the implementation of any of the Sec-~~
 3 ~~retary’s contingency plans; and~~

4 ~~“(3) the Secretary’s analysis of its funding~~
 5 ~~needs for the ensuing 5 fiscal years.~~

6 *That the Nuclear Waste Policy Act of 1982 is amended to*
 7 *read as follows:*

8 ***“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

9 ~~“(a) SHORT TITLE.—This Act may be cited as the ‘Nu-~~
 10 ~~clear Waste Policy Act of 1996’.~~

11 ~~“(b) TABLE OF CONTENTS.—~~

“Sec 1. Short title and table of contents.

“Sec 2. Definitions.

“TITLE I—OBLIGATIONS

“Sec 101. Obligations of the Secretary of Energy.

***“TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT
SYSTEM***

“Sec 201. Intermodal transfer.

“Sec 202. Transportation planning.

“Sec 203. Transportation requirements.

“Sec 204. Interim storage.

“Sec 205. Permanent repository.

“Sec 206. Land withdrawal.

“Sec 207. Permanent disposal alternatives.

“TITLE III—FUNDING AND ORGANIZATION

“Sec 301. Program funding.

“Sec 302. Office of Civilian Radioactive Waste Management.

“Sec 303. Federal contribution.

“Sec 304. Budget priorities.

“TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec 401. Compliance with other laws.

“Sec 402. Judicial review of agency actions.

“Sec 403. Licensing of facility expansions and transshipments.

“Sec 404. Siting a second repository.

“Sec 405. Financial arrangements for low-level radioactive waste site closure.

“Sec 406. Nuclear Regulatory Commission training authority.

“Sec 407. *Emplacement schedule.*

“Sec 408. *Emergency relief.*

“Sec 409. *Transfer of title.*

“Sec 410. *Environmental Requirements.*

“TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec 501. *Definitions.*

“Sec 502. *Nuclear Waste Technical Review Board.*

“Sec 503. *Functions.*

“Sec 504. *Investigatory powers.*

“Sec 505. *Compensation of members.*

“Sec 506. *Staff.*

“Sec 507. *Support services.*

“Sec 508. *Report.*

“Sec 509. *Authorization of appropriations.*

“Sec 510. *Termination of the board.*

1 **“SEC. 2. DEFINITIONS.**

2 *“For purposes of this Act:*

3 *“(1) ACCEPT, ACCEPTANCE.—The terms ‘accept’*
 4 *and ‘acceptance’ mean the Secretary’s act of taking*
 5 *possession of spent nuclear fuel or high-level radio-*
 6 *active waste.*

7 *“(2) ATOMIC ENERGY DEFENSE ACTIVITY.—The*
 8 *term ‘atomic energy defense activity’ means any ac-*
 9 *tivity of the Secretary performed in whole or in part*
 10 *in carrying out any of the following functions:*

11 *“(A) Naval reactors development.*

12 *“(B) Weapons activities including defense*
 13 *inertial confinement fusion.*

14 *“(C) Verification and control technology.*

15 *“(D) Defense nuclear materials production.*

16 *“(E) Defense nuclear waste and materials*
 17 *byproducts management.*

1 “(F) *Defense nuclear material security and*
2 *safeguards and security investigations.*

3 “(G) *Defense research and development.*

4 “(3) *CIVILIAN NUCLEAR POWER REACTOR.*—1*The*
5 *term ‘civilian nuclear power reactor’ means a civilian*
6 *nuclear power plant required to be licensed under sec-*
7 *tion 103 or 104 b, of the Atomic Energy Act of 1954*
8 *(42 U.S.C. 2133, 2134(b)).*

9 “(4) *COMMISSION.*—*The term ‘Commission’*
10 *means the Nuclear Regulatory Commission.*

11 “(5) *CONTRACTS.*—*The term ‘contracts’ means*
12 *the contracts, executed prior to the date of enactment*
13 *of the Nuclear Waste Policy Act of 1996, under sec-*
14 *tion 302(a) of the Nuclear Waste Policy Act of 1982,*
15 *by the Secretary and any person who generates or*
16 *holds title to spent nuclear fuel or high-level radio-*
17 *active waste of domestic origin for acceptance of such*
18 *waste or fuel by the Secretary and the payment of fees*
19 *to offset the Secretary’s expenditures, and any subse-*
20 *quent contracts executed by the Secretary pursuant to*
21 *section 301(a) of this Act.”*

22 “(6) *CONTRACT HOLDERS.*—*The term ‘contract*
23 *holders’ means parties (other than the Secretary) to*
24 *contracts.*

1 “(7) *DEPARTMENT.*—The term ‘Department’
2 *means the Department of Energy.*

3 “(8) *DISPOSAL.*—The term ‘disposal’ means the
4 *emplacement in a repository of spent nuclear fuel,*
5 *high-level radioactive waste, or other highly radio-*
6 *active material with no foreseeable intent of recovery,*
7 *whether or not such emplacement permits recovery of*
8 *such material for any future purpose.*

9 “(9) *DISPOSAL SYSTEM.*—The term ‘disposal sys-
10 *tem’ means all natural barriers and engineered bar-*
11 *riers, and engineered systems and components, that*
12 *prevent the release of radionuclides from the reposi-*
13 *tory.*

14 “(10) *EMPLACEMENT SCHEDULE.*—The term
15 ‘*emplacement schedule*’ means the schedule established
16 *by the Secretary in accordance with section 407(a) for*
17 *emplacement of spent nuclear fuel and high-level ra-*
18 *dioactive waste at the interim storage facility.*

19 “(11) *ENGINEERED BARRIERS AND ENGINEERED*
20 *SYSTEMS AND COMPONENTS.*—The terms ‘engineered
21 *barriers*’ and ‘engineered systems and components,’
22 *mean man-made components of a disposal system.*
23 *These terms include the spent nuclear fuel or high-*
24 *level radioactive waste form, spent nuclear fuel pack-*

1 *age or high-level radioactive waste package, and other*
 2 *material placed over and around such packages.*

3 “(12) *HIGH-LEVEL RADIOACTIVE WASTE.*—*The*
 4 *term ‘high-level radioactive waste’ means—*

5 “(A) *the highly radioactive material result-*
 6 *ing from the reprocessing of spent nuclear fuel,*
 7 *including liquid waste produced directly in re-*
 8 *processing and any solid material derived from*
 9 *such liquid waste that contains fission products*
 10 *in sufficient concentrations; and*

11 “(B) *other highly radioactive material that*
 12 *the Commission, consistent with existing law, de-*
 13 *termines by rule requires permanent isolation,*
 14 *which includes any low-level radioactive waste*
 15 *with concentrations of radionuclides that exceed*
 16 *the limits established by the Commission for*
 17 *class C radioactive waste, as defined by section*
 18 *61.55 of title 10, Code of Federal Regulations, as*
 19 *in effect on January 26, 1983.*

20 “(13) *FEDERAL AGENCY.*—*The term ‘Federal*
 21 *agency’ means any Executive agency, as defined in*
 22 *section 105 of title 5, United States Code.*

23 “(14) *INDIAN TRIBE.*—*The term ‘Indian tribe’*
 24 *means any Indian tribe, band, nation, or other orga-*
 25 *nized group or community of Indians recognized as*

1 *eligible for the services provided to Indians by the*
2 *Secretary of the Interior because of their status as In-*
3 *dians including any Alaska Native village, as defined*
4 *in section 3(c) of the Alaska Native Claims Settlement*
5 *Act (43 U.S.C. 1602(c)).*

6 “(15) *INTEGRATED MANAGEMENT SYSTEM.*—*The*
7 *term ‘integrated management system’ means the sys-*
8 *tem developed by the Secretary for the acceptance,*
9 *transportation, storage, and disposal of spent nuclear*
10 *fuel and high-level radioactive waste under title II of*
11 *this Act.*

12 “(16) *INTERIM STORAGE FACILITY.*—*The term*
13 *‘interim storage facility’ means a facility designed*
14 *and constructed for the receipt, handling, possession,*
15 *safeguarding, and storage of spent nuclear fuel and*
16 *high-level radioactive waste in accordance with title*
17 *II of this Act.*

18 “(17) *INTERIM STORAGE FACILITY SITE.*—*The*
19 *term ‘interim storage facility site’ means the specific*
20 *site within area 25 of the Nevada Test Site that is*
21 *designated by the Secretary and withdrawn and re-*
22 *served in accordance with this Act for the location of*
23 *the interim storage facility.*

1 “(18) *LOW-LEVEL RADIOACTIVE WASTE*.—The
 2 term ‘low-level radioactive waste’ means radioactive
 3 material that—

4 “(A) is not spent nuclear fuel, high-level ra-
 5 dioactive waste, transuranic waste, or byproduct
 6 material as defined in section 11 e.(2) of the
 7 Atomic Energy Act of 1954 (42 U.S.C.
 8 2014(e)(2)); and

9 “(B) the Commission, consistent with exist-
 10 ing law, classifies as low-level radioactive waste.

11 “(19) *METRIC TONS URANIUM*.—The terms ‘met-
 12 ric tons uranium and ‘MTU’ means the amount of
 13 uranium in the original unirradiated fuel element
 14 whether or not the spent nuclear fuel has been repro-
 15 cessed.

16 “(20) *NUCLEAR WASTE FUND*.—The terms ‘Nu-
 17 clear Waste Fund’ and ‘waste fund’ mean the nuclear
 18 waste fund established in the United States Treasury
 19 prior to the date of enactment of this Act under sec-
 20 tion 302(c) of the Nuclear Waste Policy Act of 1982.

21 “(21) *OFFICE*.—The term ‘Office’ means the Of-
 22 fice of Civilian Radioactive Waste Management estab-
 23 lished within the Department prior to the date of en-
 24 actment of this Act under the provisions of the Nu-
 25 clear Waste Policy Act of 1982.

1 “(22) *PROGRAM APPROACH.*—The term ‘program
2 approach’ means the Civilian Radioactive Waste
3 Management Program Plan, dated December 19,
4 1994, as modified by this Act, and as amended from
5 time to time by the Secretary in accordance with this
6 Act.

7 “(23) *REPOSITORY.*—The term ‘repository’
8 means a system designed and constructed under title
9 II of this Act for the geologic disposal of spent nuclear
10 fuel and high-level radioactive waste, including both
11 surface and subsurface areas at which spent nuclear
12 fuel and high-level radioactive waste receipt, han-
13 dling, possession, safeguarding, and storage are con-
14 ducted.

15 “(24) *SECRETARY.*—The term ‘Secretary’ means
16 the Secretary of Energy.

17 “(25) *SITE CHARACTERIZATION.*—The term ‘site
18 characterization’ means activities, whether in a lab-
19 oratory or in the field, undertaken to establish the
20 geologic condition and the ranges of the parameters of
21 a candidate site relevant to the location of a reposi-
22 tory, including borings, surface excavations of explor-
23 atory facilities, limited subsurface lateral excavations
24 and borings, and in situ testing needed to evaluate
25 the licensability of a candidate site for the location of

1 *a repository, but not including preliminary borings*
 2 *and geophysical testing needed to assess whether site*
 3 *characterization should be undertaken.*

4 “(26) *SPENT NUCLEAR FUEL.*—*The term ‘spent*
 5 *nuclear fuel’ means fuel that has been withdrawn*
 6 *from a nuclear reactor following irradiation, the con-*
 7 *sistent elements of which have not been separated by*
 8 *reprocessing.*

9 “(27) *STORAGE.*—*The term ‘storage’ means re-*
 10 *tention of spent nuclear fuel or high-level radioactive*
 11 *waste with the intent to recover such waste or fuel for*
 12 *subsequent use, processing, or disposal.*

13 “(28) *WITHDRAWAL.*—*The term ‘withdrawal’ has*
 14 *the same definition as that set forth in section 103(j)*
 15 *of the Federal Land Policy and Management Act of*
 16 *1976 (43 U.S.C. 1702(j)).*

17 “(29) *YUCCA MOUNTAIN SITE.*—*The term ‘Yucca*
 18 *Mountain site’ means the area in the State of Nevada*
 19 *that is withdrawn and reserved in accordance with*
 20 *this Act for the location of a repository.*

21 **“TITLE I—OBLIGATIONS**

22 **“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.**

23 “(a) *DISPOSAL.*—*The Secretary shall develop and op-*
 24 *erate an integrated management system for the storage and*

1 *permanent disposal of spent nuclear fuel and high-level ra-*
2 *dioactive waste.*

3 “(b) *INTERIM STORAGE.*—*The Secretary shall store*
4 *spent nuclear fuel and high-level radioactive waste from fa-*
5 *cilities designated by contract holders for storage at an in-*
6 *terim storage facility pursuant to section 204 in accordance*
7 *with the emplacement schedule, beginning not later than*
8 *November 30, 1999.*

9 “(c) *TRANSPORTATION.*—*The Secretary shall provide*
10 *for the transportation of spent nuclear fear and high-level*
11 *radioactive waste accepted by the Secretary. The Secretary*
12 *shall procure all systems and components necessary to*
13 *transport spent nuclear fuel and high-level radioactive*
14 *waste from facilities designated by contract holders to and*
15 *among facilities comprising the Integrated Management*
16 *System.*

17 “(d) *INTEGRATED MANAGEMENT SYSTEM.*—*The Sec-*
18 *retary shall expeditiously pursue the development of each*
19 *component of the integrated management system, and in*
20 *so doing shall seek to utilize effective private sector manage-*
21 *ment and contracting practices.*

22 “(e) *PRIVATE SECTOR PARTICIPATION.*—*In admin-*
23 *istering the Integrated Spent Nuclear Fuel Management*
24 *System, the Secretary shall, to the maximum extent pos-*
25 *sible, utilize, employ, procure and contract with, the private*

1 sector to fulfill the Secretary's obligations and requirements
2 under this Act.

3 “(f) *PRE-EXISTING RIGHTS.*—Nothing in this Act is
4 intended to or shall be construed to modify—

5 “(1) any right of a contract holder under section
6 302(a) of the Nuclear Waste Policy Act of 1982, or
7 under a contract executed prior to the date of enact-
8 ment of this Act under this section; or

9 “(2) obligations imposed upon the Federal Gov-
10 ernment by the United States District Court of Idaho
11 in an order entered on October 17, 1995 in United
12 States v. Batt (No. 91-0054-S-EJL).

13 “(g) *LIABILITY.*—Subject to any valid existing right
14 under subsection (f), nothing in this Act shall be construed
15 to subject the United States to financial liability for the
16 Secretary's failure to meet any deadline for the acceptance
17 or emplacement of spent nuclear fuel or high-level radio-
18 active waste for storage or disposal under this Act.

19 **“TITLE II—INTEGRATED MANAGEMENT**
20 **SYSTEM**

21 **“SEC. 201. INTERMODAL TRANSFER.**

22 “(a) *ACCESS.*—The Secretary shall utilize heavy-haul
23 truck transport to move spent nuclear fuel and high-level
24 radioactive waste from the mainline rail line at Caliente,
25 Nevada, to the interim storage facility site.

1 “(b) *CAPABILITY DATE.*—*The Secretary shall develop*
2 *the capability to commence rail to truck intermodal trans-*
3 *fer at Caliente, Nevada, no later than November 30, 1999.*
4 *Intermodal transfer and related activities are incidental to*
5 *the interstate transportation of spent nuclear fuel and high-*
6 *level radioactive waste.*

7 “(c) *ACQUISITIONS.*—*The Secretary shall acquire*
8 *lands and rights-of-way along the “Chalk Mountain Heavy*
9 *Haul Route” depicted on the map dated March 13, 1996,*
10 *and on file with the Secretary, necessary to commence inter-*
11 *modal transfer at Caliente, Nevada.*

12 “(d) *REPLACEMENTS.*—*The Secretary shall acquire*
13 *and develop on behalf of, and dedicate to, the City of*
14 *Caliente, Nevada, parcels of land and right-of-way within*
15 *Lincoln County, Nevada, as required to facilitate replace-*
16 *ment of land and city wastewater disposal facilities nec-*
17 *essary to commence intermodal transfer pursuant to this*
18 *Act. Replacement of land and city wastewater disposal ac-*
19 *tivities shall occur no later than November 30, 1999.*

20 “(e) *NOTICE AND MAP.*—*Within 6 months of the date*
21 *of enactment of the Nuclear Waste Policy act of 1996, the*
22 *Secretary shall—*

23 “(1) *publish in the Federal Register a notice con-*
24 *taining a legal description of the sites and rights-of-*
25 *way to be acquired under this subsection; and*

1 “(2) file copies of a map of such sites and rights-
2 of-way with the Congress, the Secretary of the Inte-
3 rior, the State of Nevada, the Archivist of the United
4 States, the Board of Lincoln County Commissioners,
5 the Board of Nye County Commissioners, and the
6 Caliente City Council.

7 Such map and legal description shall have the same force
8 and effect as if they were included in this Act. The Sec-
9 retary may correct clerical and typographical errors and
10 legal descriptions and make minor adjustments in the
11 boundaries.

12 “(f) IMPROVEMENTS.—The Secretary shall make im-
13 provements to existing roadways selected for heavy-haul
14 truck transport between Caliente, Nevada, and the interim
15 storage facility site as necessary to facilitate year-round
16 safe transport of spent nuclear fuel and high-level radio-
17 active waste.

18 “(g) NATIONAL ENVIRONMENTAL POLICY ACT.—The
19 Secretary’s activities in connection with the development of
20 intermodal transfer capability and improvements to exist-
21 ing roadways pursuant to this section shall be considered
22 preliminary decisionmaking activities for purposes of judi-
23 cial review. Notwithstanding any other law, such activities
24 shall not require the preparation of an environmental im-
25 pact statement under section 102(2)(C) of the National En-

1 *vironmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or*
 2 *any environmental review under subparagraph (E) or (F)*
 3 *of section 102(2) of such Act.*

4 “(h) *LOCAL GOVERNMENT INVOLVEMENT.*—*The Com-*
 5 *mission shall enter into a Memorandum of Understanding*
 6 *with the City of Caliente and Lincoln County, Nevada, to*
 7 *provide advice to the Commission regarding intermodal*
 8 *transfer and to facilitate on-site representation. Reasonable*
 9 *expenses of such representation shall be paid by the Sec-*
 10 *retary.*

11 “(i) *BENEFITS AGREEMENT.*—

12 “(1) *IN GENERAL.*—*The Secretary shall offer to*
 13 *enter into an agreement with Lincoln County, Nevada*
 14 *concerning the integrated management system.*

15 “(2) *AGREEMENT CONTENT.*—*Any agreement*
 16 *shall contain such terms and conditions, including*
 17 *such financial and institutional arrangements, as the*
 18 *Secretary and agreement entity determine to be rea-*
 19 *sonable and appropriate and shall contain such pro-*
 20 *visions as are necessary to preserve any right to par-*
 21 *ticipation or compensation of Lincoln County, Ne-*
 22 *vada.*

23 “(3) *AMENDMENT.*—*An agreement entered into*
 24 *under this subsection may be amended only with the*

1 *mutual consent of the parties to the amendment and*
 2 *terminated only in accordance with paragraph (4).*

3 “(4) *TERMINATION.*—*The Secretary shall termi-*
 4 *nate the agreement under this subsection if any major*
 5 *element of the integrated management system may*
 6 *not be completed.*

7 “(5) *LIMITATION.*—*Only 1 agreement may be in*
 8 *effect at any one time.*

9 “(6) *JUDICIAL REVIEW.*—*Decisions of the Sec-*
 10 *retary under this section are not subject to judicial*
 11 *review.*

12 “(j) *CONTENT OF AGREEMENT.*—

13 “(1) *SCHEDULE.*—*In addition to the benefits to*
 14 *which Lincoln County is entitled to under this title,*
 15 *the Secretary shall make payments under the benefits*
 16 *agreement in accordance with the following schedule:*

BENEFITS SCHEDULE

(amounts in millions)

<i>Event</i>	<i>Payment</i>
<i>(A) Annual Payments prior to first receipt of spent fuel</i>	<i>\$2.5</i>
<i>(B) Annual payments beginning upon first spent fuel receipt</i>	<i>\$5</i>
<i>(C) Payment upon closure of the intermodal transfer facility</i>	<i>\$5</i>

17 “(2) *DEFINITIONS.*—*For purposes of this section,*
 18 *the term—*

19 “(A) *‘spent fuel’ means high-level radio-*
 20 *active waste or spent nuclear fuel; and*

1 “(B) ‘first spent fuel receipt’ does not in-
2 clude receipt of spent fuel or high-level radio-
3 active waste for purposes of testing or oper-
4 ational demonstration.

5 “(3) ANNUAL PAYMENTS.—Annual payments
6 prior to first spent fuel receipt under paragraph
7 (1)(A) shall be made on the date of execution of the
8 benefits agreement and thereafter on the anniversary
9 date of such execution. Annual payments after the
10 first spent fuel receipt until closure of the facility
11 under paragraph (1)(C) shall be made on the anni-
12 versary date of such first spent fuel receipt.

13 “(4) REDUCTION.—If the first spent fuel pay-
14 ment under paragraph (1)(B) is made within 6
15 months after the last annual payment prior to the re-
16 ceipt of spent fuel under paragraph (1)(A), such first
17 spent fuel payment under paragraph (1)(B) shall be
18 reduced by an amount equal to $\frac{1}{12}$ of such annual
19 payment under paragraph (1)(A) for each full month
20 less than 6 that has not elapsed since the last annual
21 payment under paragraph (1)(A).

22 “(5) RESTRICTIONS.—The Secretary may not re-
23 strict the purposes for which the payments under this
24 section may be used.

1 “(6) *DISPUTE.*—*In the event of a dispute con-*
 2 *cerning such plan, the Secretary shall resolve such*
 3 *dispute, consistent with this Act and applicable State*
 4 *law.*

5 “(7) *CONSTRUCTION.*—*The signature of the Sec-*
 6 *retary on a valid benefits agreement under this sec-*
 7 *tion shall constitute a commitment by the United*
 8 *States to make payments in accordance with such*
 9 *agreements under section 301(c)(2).*

10 “(k) *INITIAL LAND CONVEYANCES.*—

11 “(1) *CONVEYANCES OF PUBLIC LANDS.*—*One*
 12 *hundred and twenty days after enactment of this Act,*
 13 *all right, title and interest of the United States in the*
 14 *property described in paragraph (2), and improve-*
 15 *ments thereon, together with all necessary easements*
 16 *for utilities and ingress and egress to such property,*
 17 *including, but not limited to, the right to improve*
 18 *those easements, are conveyed by operation of law to*
 19 *the County of Lincoln, Nevada, except that any lands*
 20 *conveyed to the County of Lincoln under this sub-*
 21 *section that are subject to a Federal grazing permit*
 22 *or lease or a similar federally granted permit or lease*
 23 *shall be conveyed between 60 and 120 days of the ear-*
 24 *liest time the Federal agency administering or grant-*
 25 *ing the permit or lease would be able to legally termi-*

1 *nate such time under the statutes and regulations ex-*
 2 *isting at the date of enactment of this Act, unless Lin-*
 3 *coln County and the affected holder of the permit or*
 4 *lease negotiate an agreement that allows for an ear-*
 5 *lier conveyance.*

6 “(2) *SPECIAL CONVEYANCES.—Notwithstanding*
 7 *any other law, the following public lands shall be con-*
 8 *veyed under paragraph (1) to the County of Lincoln,*
 9 *Nevada:*

10 “(A) *Lincoln County, Parcel B, Community*

11 *Expansion Area:*

<i>Township</i>	<i>Range</i>	<i>Mer.</i>	<i>Sec.</i>	<i>Subdivision</i>	<i>Acres</i>			
4S.	67E.	MDM	5	<i>E^{1/2}NE^{1/4}, W^{1/2}NW^{1/4}, NW^{1/4}SW^{1/4}, E^{1/2}SE^{1/4}, SW^{1/4}SE^{1/4}</i>	320			
			6	<i>NE^{1/4}</i>	160			
			7	<i>N^{1/2}NW^{1/4}, SW^{1/4}NW^{1/4}, W^{1/2}SW^{1/4}.</i>	200			
			8	<i>S^{1/2}SE^{1/4}.</i>	80			
			9	<i>SW^{1/4}, W^{1/2}SE^{1/4}, SE^{1/4}SE^{1/4}, W^{1/2}NE^{1/4}SE^{1/4}, E^{1/2}SW^{1/4}NE^{1/4}SE^{1/4}</i>	302.5			
			9	<i>N^{1/2}N^{1/2}</i>	160			
			17	<i>NE^{1/4}, S^{1/2}NW^{1/4}</i>	240			
			18	<i>SE^{1/4}NE^{1/4}</i>	40			
			4S.	66 E.	MDM	12	<i>S^{1/2}NE^{1/4}, SE^{1/4}</i>	240
						13	<i>NE^{1/4}, NW^{1/4}SE^{1/4}.</i>	200
<i>Total</i>						1,942.5		

12 “(B) *Lincoln County, Parcel E, Pioche*

13 *Community Expansion Area:*

<i>Township</i>	<i>Range</i>	<i>Mer.</i>	<i>Sec.</i>	<i>Subdivision</i>	<i>Acres</i>
1N.	67 E.	MDM	9	<i>N^{1/2}, N^{1/2}S^{1/2}.</i>	480
			11	<i>SW^{1/4}.</i>	160
			12	<i>W^{1/2}SW^{1/4}, N^{1/2}NE^{1/4}SW^{1/4}, N^{1/2}NE^{1/4}SE^{1/4}.</i>	120

Township	Range	Mer.	Sec.	Subdivision	Acres
			13	NW ¹ / ₄ NW ¹ / ₄ NW ¹ / ₄ , N ¹ / ₂ SW ¹ / ₄ NW ¹ / ₄ NW ¹ / ₄	15
			15	N ¹ / ₂ NE ¹ / ₄	80
			16	N ¹ / ₂ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ (excluding mineral pat- ents) (approx)	110
				<i>Total</i>	985

1 “(C) Lincoln County, Parcel F. Panacea
2 Community Expansion Area:

Township	Range	Mer.	Sec.	Subdivision	Acres
2S	68E	MDM	2	S ¹ / ₂	320
			3	S ¹ / ₂	320
			4	N ¹ / ₂ SE ¹ / ₄ , N ¹ / ₂ SW ¹ / ₄ SE ¹ / ₄ , SE ¹ / ₄ SE ¹ / ₄	140
			9	E ¹ / ₂ NE ¹ / ₄ , E ¹ / ₂ W ¹ / ₂ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , E ¹ / ₂ SW ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ SW ¹ / ₄ , SW ¹ / ₄ SE ¹ / ₄ , E ¹ / ₂ SE ¹ / ₄	340
			10	All	640
			11	N ¹ / ₂	320
				<i>Total</i>	2,080

3 “(D) Lincoln County, Parcel J, Alamo
4 Community and Airport Expansion Area:

Township	Range	Mer.	Sec.	Subdivision	Acres
7S	60E	MDM	1	E ¹ / ₂	320
			12	NE ¹ / ₄	160
7S	61E	MDM	4	W ¹ / ₂	320
			5	All	640
			6	S ¹ / ₂	320
			7	N ¹ / ₂	320
			8	All	640
			9	W ¹ / ₂	320
				<i>Total</i>	1,920

5 “(E) Lincoln County, Parcel M, Crestline
6 Industrial Site:

<i>Township</i>	<i>Range</i>	<i>Mer.</i>	<i>Sec.</i>	<i>Subdivision</i>	<i>Acres</i>
3S	70E	MDM	14 23	S ¹ / ₂	320
				All	640
				Total	960

1 “(3) *EVIDENCE OF TITLE TRANSFER.*—Upon the
2 request of the County of Lincoln, Nevada, the Sec-
3 retary of the Interior shall provide evidence of title
4 transfer.

5 **“SEC. 202. TRANSPORTATION PLANNING.**

6 “(a) *TRANSPORTATION READINESS.*—The Secretary
7 shall take those actions that are necessary and appropriate
8 to ensure that the Secretary is able to transport spent nu-
9 clear fuel and high-level radioactive waste from sites des-
10 ignated by the contract holders to mainline transportation
11 facilities beginning not later than November 30, 1999. As
12 soon as is practicable following enactment of this Act, the
13 Secretary shall analyze each specific reactor facility des-
14 ignated by contract holders in the order of priority estab-
15 lished in the emplacement schedule, and develop a logistical
16 plan to assure the Secretary’s ability to transport spent nu-
17 clear fuel and high-level radioactive waste.

18 “(b) *TRANSPORTATION PLANNING.*—In conjunction
19 with the development of the logistical plan in accordance
20 with subsection (a), the Secretary shall update and modify,
21 as necessary, the Secretary’s transportation institutional
22 plans to ensure that institutional issues are addressed and

1 *resolved on a schedule to support the commencement of*
2 *transportation of spent nuclear fuel and high-level radio-*
3 *active waste to the interim storage facility no later than*
4 *November 30, 1999. Among other things, such planning*
5 *shall provide a schedule and process for addressing and im-*
6 *plementing, as necessary, transportation routing plans,*
7 *transportation contracting plans, transportation training*
8 *in accordance with Section 203, and public education re-*
9 *garding transportation of spent nuclear fuel and nuclear*
10 *waste; and transportation tracking programs.*

11 ***“SEC. 203. TRANSPORTATION REQUIREMENTS.***

12 *“(a) PACKAGE CERTIFICATION.—No spent nuclear fuel*
13 *or high-level radioactive waste may be transported by or*
14 *for the Secretary under this Act except in packages that*
15 *have been certified for such purposes by the Commission.*

16 *“(b) STATE NOTIFICATION.—The Secretary shall abide*
17 *by regulations of the Commission regarding advance notifi-*
18 *cation of State and local governments prior to transpor-*
19 *tation of spent nuclear fuel or high-level radioactive waste*
20 *under this Act.*

21 *“(c) TECHNICAL ASSISTANCE.—The Secretary shall*
22 *provide technical assistance and funds to States, units of*
23 *local government, and Indian tribes through whose jurisdic-*
24 *tion the Secretary plans to transport substantial amounts*
25 *of spent nuclear high level radioactive waste for public safe-*

1 *ty officials of appropriate units of local government. Train-*
2 *ing shall cover procedures required for safe routine trans-*
3 *portation of these materials, as well as procedures for deal-*
4 *ing with emergency response situations The Secretary's*
5 *duty to provide technical and financial assistance under*
6 *this subsection shall be limited to amounts specified in an-*
7 *nual appropriations.*

8 “(d) *PUBLIC EDUCATION.*—*The Secretary shall con-*
9 *duct a program to educate the public regarding the trans-*
10 *portation of spent nuclear fuel and high-level radioactive*
11 *waste, with an emphasis upon those States, units of local*
12 *government, and Indian tribes through whose jurisdiction*
13 *the Secretary plans to transport substantial amounts of*
14 *spent nuclear fuel or high-level radioactive waste.*

15 “(e) *USE OF PRIVATE CARRIERS.*—*The Secretary, in*
16 *providing for the transportation of spent nuclear fuel under*
17 *this Act, shall utilize by contract private industry to the*
18 *fullest extent possible in each aspect of such transportation.*
19 *The Secretary shall use direct Federal services for such*
20 *transportation only upon a determination by the Secretary*
21 *of Transportation, in consultation with the Secretary, that*
22 *private industry is unable to unwilling to provide such*
23 *transportation services at a reasonable cost.*

1 **“SEC. 204. INTERIM STORAGE.**

2 “(a) *AUTHORIZATION.*—*The Secretary shall design,*
3 *construct, and operate a facility for the interim storage of*
4 *spent nuclear fuel and high-level radioactive waste at the*
5 *interim storage facility site. The interim storage facility*
6 *shall be subject to licensing pursuant to the Atomic Energy*
7 *Act of 1954 in accordance with the Commission’s regula-*
8 *tions governing the licensing of independent spent fuel stor-*
9 *age installations, which regulations shall be amended by the*
10 *Commission as necessary to implement the provisions of*
11 *this Act. The interim storage facility shall commence oper-*
12 *ation in phases by November 30, 1999.*

13 “(b) *SCHEDULE.*—*The Secretary shall proceed forth-*
14 *with and without further delay with all activities necessary*
15 *to begin accepting spent nuclear fuel and high-level radio-*
16 *active waste at the interim storage facility at the Yucca*
17 *Mountain site by November 30, 1999, except that:*

18 “(1) *The Secretary shall not begin any construc-*
19 *tion activities at the Yucca Mountain site before Octo-*
20 *ber 1, 1998.*

21 “(2) *The Secretary shall cease all activities (ex-*
22 *cept necessary termination activities) at the Yucca*
23 *Mountain site and undertake activities to establish an*
24 *interim storage facility and a repository at an alter-*
25 *native site if—*

1 “(A) the President designates an alternative
2 site and the alternative site is approved by law,
3 or

4 “(B) the Secretary determines, in his discre-
5 tion, on or before October 1, 1998, based on a
6 preponderance of the information available at
7 such time, that the Yucca Mountain site is un-
8 suitable for development as a repository because
9 of a substantial likelihood that a repository of
10 useful size cannot be designed, licensed, and con-
11 structed at the Yucca Mountain site.

12 “(3) In the event the Secretary makes the deter-
13 mination under paragraph (2)(B) that the Yucca
14 Mountain site is unsuitable for development as a re-
15 pository and the Secretary has not constructed an al-
16 ternative interim storage facility site that accepts
17 spent fuel and high-level radioactive waste by Novem-
18 ber 30, 1999, the Secretary shall begin construction
19 activities for an interim storage facility at the in-
20 terim storage facility site. The interim storage facility
21 constructed under this paragraph shall begin accept-
22 ance of spent nuclear fuel and high-level radioactive
23 waste within one year after construction begins under
24 this paragraph.

25 “(c) DESIGN.—

1 “(1) *The interim storage facility shall be de-*
2 *signed in two phases in order to commence operations*
3 *no late than November 30, 1999. The design of the in-*
4 *terim storage facility shall provide for the use of stor-*
5 *age technologies, licensed, approved, or certified by the*
6 *Commission for use at the interim storage facility as*
7 *necessary to ensure compatibility between the interim*
8 *storage facility and contract holders’ spent nuclear*
9 *fuel and facilities, and to facilitate the Secretary’s*
10 *ability to meet the Secretary’s obligations under this*
11 *Act.*

12 “(2) *The Secretary shall consent to an amend-*
13 *ment to the contracts to provide for reimbursement to*
14 *contract holders for transportable storage systems*
15 *purchased by contract holders if the Secretary deter-*
16 *mines that it is cost effective to use such transportable*
17 *storage systems as part of the integrated management*
18 *system, provided that the Secretary shall not be re-*
19 *quired to expend any funds to modify contract hold-*
20 *ers’ storage or transport systems or to seek additional*
21 *regulatory approvals in order to use such systems.*

22 “(d) *LICENSING.—*

23 “(1) *PHASES.—The interim storage facility shall*
24 *be licensed by the Commission in two phases in order*

1 to commence operations no later than November 30,
2 1999.

3 “(2) *FIRST PHASE.*—No later than 12 months
4 after the date of enactment of the Nuclear Waste Pol-
5 icy Act of 1996, the Secretary shall submit to the
6 Commission an application for a license for the first
7 phase of the interim storage facility. The Environ-
8 mental Report and Safety Analysis Report submitted
9 in support of such license application shall be consist-
10 ent with the scope of authority requested in the license
11 application. The license issued for the first phase of
12 the interim storage facility shall have a term of 20
13 years and shall be renewable for additional terms
14 upon application of the Secretary. The interim stor-
15 age facility licensed in the first phase shall have a
16 capacity of not more than 20,000 MTU. The Commis-
17 sion shall issue a final decision granting or denying
18 the application for the first phase license no later
19 than 16 months from the date of the submittal of the
20 application for such license.

21 “(3) *SECOND PHASE.*—No later than 30 months
22 after the date of enactment of the Nuclear Waste Pol-
23 icy Act of 1996, the Secretary shall submit to the
24 Commission an application for a license for the sec-
25 ond phase interim storage facility. The license for the

1 *second phase facility shall authorize a storage capac-*
2 *ity of 100,000 MTU. The license for the second phase*
3 *shall have an initial term of up to 100 years, and*
4 *shall be renewable for additional terms upon applica-*
5 *tion of the Secretary. The second phase of the interim*
6 *storage facility shall commence operations no later*
7 *than December 31, 2002.*

8 “(e) *ADDITIONAL AUTHORITY.*—

9 “(1) *CONSTRUCTION.*—*For purposes of comply-*
10 *ing with subsection (a), the Secretary may commence*
11 *site preparation for the interim storage facility as*
12 *soon as practicable after the date of enactment of the*
13 *Nuclear Waste Policy Act of 1996 and shall commence*
14 *construction of each phase of the interim storage facil-*
15 *ity subsequent to submittal of the license application*
16 *for such phase except that the Commission shall issue*
17 *an order suspending such construction at any time if*
18 *the Commission determines that such construction*
19 *poses an unreasonable risk to public health and safety*
20 *or the environment. The Commission shall terminate*
21 *all or part of such order upon a determination that*
22 *the Secretary has taken appropriate action to elimi-*
23 *nate such risk.*

24 “(2) *FACILITY USE.*—*Notwithstanding any oth-*
25 *erwise applicable licensing requirement, the Secretary*

1 *may utilize any facility owned by the Federal Gov-*
2 *ernment on the date of enactment of the Nuclear*
3 *Waste Policy Act of 1996 within the boundaries of the*
4 *interim storage facility site.*

5 “(3) *EMPLACEMENT OF FUEL AND WASTE.*—Sub-
6 *ject to paragraph (h), once the Secretary has achieved*
7 *the annual acceptance rate for spent nuclear fuel from*
8 *civilian nuclear power reactors established pursuant*
9 *to the contracts executed prior to the date of enact-*
10 *ment of the Nuclear Waste Policy Act of 1996, the*
11 *Secretary shall accept, in an amount not less than 25*
12 *percent of the difference between the contractual ac-*
13 *ceptance rate and the annual emplacement rate for*
14 *spent nuclear fuel from civilian nuclear power reac-*
15 *tors established under section 407(a), the following ra-*
16 *dioactive materials—*

17 “(A) *spent nuclear fuel or high-level radio-*
18 *active waste of domestic origin from civilian nu-*
19 *clear power reactors that have permanently*
20 *ceased operation on or before the date of enact-*
21 *ment of the Nuclear Waste Policy Act of 1996;*

22 “(B) *spent nuclear fuel from foreign re-*
23 *search reactors, as necessary to promote non-pro-*
24 *liferation objectives; and*

1 “(C) *spent nuclear fuel, including spent nu-*
 2 *clear fuel from naval reactors, and high-level ra-*
 3 *dioactive waste from atomic energy defense ac-*
 4 *tivities.*

5 “(f) *NATIONAL ENVIRONMENTAL POLICY ACT OF*
 6 1969.—

7 “(1) *PRELIMINARY DECISIONMAKING ACTIVI-*
 8 *TIES.—The Secretary’s activities under this section,*
 9 *including the selection of a site for the interim storage*
 10 *facility, the preparation and submittal of a license*
 11 *application and supporting documentation, the con-*
 12 *struction and operation of any facility, and facility*
 13 *use pursuant to paragraph (d)(2) of this section shall*
 14 *be considered preliminary decisionmaking activities*
 15 *for purposes of judicial review. The Secretary shall*
 16 *not prepare an environmental impact statement*
 17 *under section 102(2)(C) of the National Environ-*
 18 *mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or*
 19 *any environmental review under subparagraph (E) or*
 20 *(F) of such Act before conducting these activities.*

21 “(2) *ENVIRONMENTAL IMPACT STATEMENT.—*

22 “(A) *FINAL DECISION.—A final decision by*
 23 *the Commission to grant or deny a license appli-*
 24 *cation for the first or second phase of the interim*
 25 *storage facility shall be accompanied by an En-*

1 *vironmental Impact Statement prepared under*
 2 *section 102(2)(C) of the National Environmental*
 3 *Policy Act of 1969 (42 U.S.C 4332(2)(C)). In*
 4 *preparing such Environmental Impact State-*
 5 *ment, the Commission—*

6 “(i) shall ensure that the scope of the
 7 *Environmental Impact Statement is con-*
 8 *sistent with the scope of the licensing ac-*
 9 *tion; and*

10 “(ii) shall analyze the impacts of the
 11 *transportation of spent nuclear fuel and*
 12 *high-level radioactive waste to the interim*
 13 *storage facility in a generic manner.*

14 “(B) CONSIDERATIONS.—Such *Environ-*
 15 *mental Impact Statement shall not consider—*

16 “(i) the need for the interim storage fa-
 17 *cility, including any individual component*
 18 *thereof,*

19 “(ii) the time of the initial availability
 20 *of the interim storage facility;*

21 “(iii) any alternatives to the storage of
 22 *spent nuclear fuel and high-level radioactive*
 23 *waste at the interim storage facility;*

1 “(iv) *any alternatives to the site of the*
 2 *facility as designated by the Secretary in*
 3 *accordance with subsection (a);*

4 “(v) *any alternatives to the design cri-*
 5 *teria for such facility or any individual*
 6 *component thereof, as specified by the Sec-*
 7 *retary in the license application; or*

8 “(vi) *the environmental impacts of the*
 9 *storage of spent nuclear fuel and high-level*
 10 *radioactive waste at the interim storage fa-*
 11 *cility beyond the initial term of the license*
 12 *or the term of the renewal period for which*
 13 *a license renewal application is made.*

14 “(g) *JUDICIAL REVIEW.—Judicial review of the Com-*
 15 *mission’s environmental impact statement under the Na-*
 16 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*
 17 *et seq.) shall be consolidated with judicial review of the*
 18 *Commission’s licensing decision. No court shall have juris-*
 19 *dition to enjoin the construction or operation of the in-*
 20 *terim storage facility prior to its final decision on review*
 21 *of the Commission’s licensing action.*

22 “(h) *WASTE CONFIDENCE.—The Secretary’s obligation*
 23 *to construct and operate the interim storage facility in ac-*
 24 *cordance with this section and the Secretary’s obligation to*
 25 *develop an integrated management system in accordance*

1 *with the provisions of this Act, shall provide sufficient and*
2 *independent grounds for any further findings by the Com-*
3 *mission of reasonable assurance that spent nuclear fuel and*
4 *high-level radioactive waste will be disposed of safely and*
5 *on a timely basis for purposes of the Commission's decision*
6 *to grant or amend any license to operate any civilian nu-*
7 *clear power reactor under the Atomic Energy Act of 1954*
8 *(42 U.S.C. 2011, et seq.).*

9 “(i) *STORAGE OF OTHER SPENT NUCLEAR FUEL AND*
10 *HIGH-LEVEL RADIOACTIVE WASTE.*—No later than 18
11 *months following the date of enactment of the Nuclear Waste*
12 *Policy Act of 1996, the Commission shall, by rule, establish*
13 *criteria for the storage in the interim storage facility of fuel*
14 *and waste listed in paragraph (d)(3) (A) through (C), to*
15 *the extent such criteria are not included in regulations is-*
16 *sued by the Commission and existing on the date of enact-*
17 *ment of the Nuclear Waste Policy Act of 1996. Following*
18 *establishment of such criteria, the Secretary shall seek au-*
19 *thority, as necessary, to store fuel and waste listed in para-*
20 *graph (d)(3) (A) through (C) at the interim storage facility.*
21 *None of the activities carried out pursuant to this para-*
22 *graph shall delay, or otherwise affect, the development, con-*
23 *struction, licensing, or operation of the interim storage fa-*
24 *cility.*

1 “(j) *SAVINGS CLAUSE.*—*The Commission shall, by*
 2 *rule, establish procedures for the licensing of any technology*
 3 *for the dry storage of spent nuclear fuel by rule and without,*
 4 *to the maximum extent possible, the need for site-specific*
 5 *approvals by the Commission. Nothing in this Act shall af-*
 6 *fect any such procedures, or any licenses or approvals is-*
 7 *sued pursuant to such procedures in effect on that date of*
 8 *enactment.*

9 “**SEC. 205. PERMANENT REPOSITORY.**

10 “(a) *REPOSITORY CHARACTERIZATION.*—

11 “(1) *GUIDELINES.*—*The guidelines promulgated*
 12 *by the Secretary and published at 10 CFR part 960*
 13 *are annulled and revoked and the Secretary shall*
 14 *make no assumptions or conclusions about the*
 15 *licensability of the Yucca Mountain site as a reposi-*
 16 *tory by reference to such guidelines.*

17 “(2) *SITE CHARACTERIZATION ACTIVITIES.*—*The*
 18 *Secretary shall carry out appropriate site character-*
 19 *ization activities at the Yucca Mountain site in ac-*
 20 *cordance with the Secretary’s program approach to*
 21 *site characterization. The Secretary shall modify or*
 22 *eliminate those site characterization activities de-*
 23 *signed only to demonstrate the suitability of the site*
 24 *under the guidelines referenced in paragraph (1).*

1 “(3) *SCHEDULE DATE.*—Consistent with the
2 schedule set forth in the program approach, as modi-
3 fied to be consistent with the Nuclear Waste Policy
4 Act of 1996. No later than December 31, 2001, the
5 Secretary shall apply to the Commission for author-
6 ization to construct a repository. If, at any time
7 prior to the filing of such application, the Secretary
8 determines that the Yucca Mountain site cannot sat-
9 isfy the Commission’s regulations applicable to the li-
10 censing of a geologic repository, the Secretary shall
11 terminate site characterization activities at the site,
12 notify Congress and the State of Nevada of the Sec-
13 retary’s determination and the reasons therefor, and
14 recommend to Congress not later than 6 months after
15 such determination further actions, including the en-
16 actment of legislation, that may be needed to manage
17 the Nation’s spent nuclear fuel and high-level radio-
18 active waste.

19 “(4) *MAXIMIZING CAPACITY.*—In developing an
20 application for authorization to construct the reposi-
21 tory, the Secretary shall seek to maximize the capac-
22 ity of the repository, in the most cost-effective man-
23 ner, consistent with the need for disposal capacity.

24 “(b) *REPOSITORY LICENSING.*—Upon the completion
25 of any licensing proceeding for the first phase of the interim

1 *storage facility, the Commission shall amend its regulations*
 2 *governing the disposal of spent nuclear fuel and high-level*
 3 *radioactive waste in geologic repositories to the extent nec-*
 4 *essary to comply with this Act. Subject to subsection (c),*
 5 *such regulations shall provide for the licensing of the reposi-*
 6 *tory according to the following procedures:*

7 “(1) *CONSTRUCTION AUTHORIZATION.—The*
 8 *Commission shall grant the Secretary a construction*
 9 *authorization for the repository upon determining*
 10 *that there is reasonable assurance that spent nuclear*
 11 *fuel and high-level radioactive waste can be disposed*
 12 *of in the repository—*

13 “(A) *in conformity with the Secretary’s ap-*
 14 *plication, the provisions of this Act, and the reg-*
 15 *ulations of the Commission;*

16 “(B) *without unreasonable risk to the health*
 17 *and safety of the public;*

18 “(C) *consistent with the common defense*
 19 *and security; and*

20 “(D) *consistent with the most economic use*
 21 *of the Nation’s resources.*

22 “(2) *LICENSE.—Following substantial comple-*
 23 *tion of construction and the filing of any additional*
 24 *information needed to complete the license applica-*
 25 *tion, the Commission shall issue a license to dispose*

1 *of spent nuclear fuel and high-level radioactive waste*
2 *in the repository if the Commission determines that*
3 *the repository has been constructed and will operate—*

4 “(A) *in conformity with the Secretary’s ap-*
5 *plication, the provisions of this Act, and the reg-*
6 *ulations of the Commission;*

7 “(B) *without unreasonable risk to the health*
8 *and safety of the public;*

9 “(C) *consistent with the common defense*
10 *and security; and*

11 “(D) *consistent with the most economic use*
12 *of the Nation’s resources.*

13 “(3) *CLOSURE.—After emplacing spent nuclear*
14 *fuel and high-level radioactive waste in the repository*
15 *and collecting sufficient confirmatory data on reposi-*
16 *tory performance to reasonably confirm the basis for*
17 *repository closure consistent with the Commission’s*
18 *regulations applicable to the licensing of a repository,*
19 *as modified in accordance with this Act, the Secretary*
20 *shall apply to the Commission to amend the license*
21 *to permit permanent closure of the repository. The*
22 *Commission shall grant such license amendment upon*
23 *finding that there is reasonable assurance that the re-*
24 *pository can be permanently closed—*

1 “(A) in conformity with the Secretary’s ap-
2 plication to amend the license, the provisions of
3 this Act, and the regulations of the Commission;

4 “(B) without unreasonable risk to the health
5 and safety of the public;

6 “(C) consistent with the common defense
7 and security; and

8 “(D) consistent with the most economic use
9 of the Nation’s resources.

10 “(4) POST-CLOSURE.—The Secretary shall take
11 those actions necessary and appropriate at the Yucca
12 Mountain site to prevent any activity at the site sub-
13 sequent to repository closure that poses an unreason-
14 able risk of—

15 “(A) breaching the repository’s engineered
16 or geological barriers; or

17 “(B) increasing the exposure of individual
18 members of the public to radiation beyond the re-
19 lease standard established in subsection (d)(1).

20 “(c) MODIFICATION OF REPOSITORY LICENSING PRO-
21 CEDURE.—The Commission’s regulations shall provide for
22 the modification of the repository licensing procedure, as
23 appropriate, in the event that the Secretary seeks a license
24 to permit the emplacement in the repository, on a retriev-
25 able basis, of spent nuclear fuel or high-level radioactive

1 *waste as is necessary to provide the Secretary with suffi-*
 2 *cient confirmatory data on repository performance to rea-*
 3 *sonably confirm the basis for repository closure consistent*
 4 *with applicable regulations.*

5 “(d) *REPOSITORY LICENSING STANDARDS.*—Notwith-
 6 *standing any other provision of law, the Administrator of*
 7 *the Environmental Protection Agency shall not promulgate,*
 8 *by rule or otherwise, standards for protection of the public*
 9 *from releases of radioactive materials or radioactivity from*
 10 *the repository and any such standards existing on the date*
 11 *of enactment of the Nuclear Waste Policy Act of 1996 shall*
 12 *not be incorporated in the Commission’s licensing regula-*
 13 *tions. The Commission’s repository licensing determina-*
 14 *tions for the protection of the public shall be based solely*
 15 *on a finding whether the repository can be operated in con-*
 16 *formance with the overall system performance standard es-*
 17 *tablished in paragraph (1), applied in accordance with the*
 18 *provisions of paragraph (2). The Commission shall amend*
 19 *its regulations in accordance with subsection (b) to incor-*
 20 *porate each of the following licensing standards:*

21 “(1) *ESTABLISHMENT OF OVERALL SYSTEM PER-*
 22 *FORMANCE STANDARD.*—*The standard for protection*
 23 *of the public from release of radioactive material or*
 24 *radioactivity from the repository shall prohibit re-*
 25 *leases that would expose an average member of the*

1 *general population in the vicinity of the Yucca Moun-*
2 *tain site to an annual dose in excess of 100 millirems.*
3 *Such standard shall constitute an overall system per-*
4 *formance standard.*

5 “(2) *APPLICATION OF OVERALL SYSTEM PER-*
6 *FORMANCE STANDARD.—The Commission shall issue*
7 *the license if it finds reasonable assurance that for the*
8 *first 1,000 years following the commencement of re-*
9 *pository operations, the overall system performance*
10 *standard will be met based on a probabilistic evalua-*
11 *tion, as appropriate, of compliance with the overall*
12 *system performance standard in paragraph (1).*

13 “(3) *FACTORS.—For purposes of making the*
14 *finding in paragraph (2)—*

15 “(A) *the Commission shall not consider cat-*
16 *astrophic events where the health consequences of*
17 *individual events themselves can be reasonably*
18 *assumed to exceed the health consequences due to*
19 *the impact of the events on repository perform-*
20 *ance;*

21 “(B) *for the purpose of this section, an av-*
22 *erage member of the general population in the*
23 *vicinity of the Yucca Mountain site means a per-*
24 *son whose physiology, age, general health, agri-*
25 *cultural practices, eating habits, and social be-*

1 *havior represent the average for persons living in*
2 *the vicinity of the site. Extremes in social behav-*
3 *ior, eating habits, or other relevant practices or*
4 *characteristics shall not be considered; and*

5 *“(C) the Commission shall assume that, fol-*
6 *lowing repository closure, the inclusion of engi-*
7 *neered barriers and the Secretary’s post-closure*
8 *actions at the Yucca Mountain site, in accord-*
9 *ance with subsection (b)(4), shall be sufficient*
10 *to—*

11 *“(i) prevent any human activity at the*
12 *site that poses an unreasonable risk of*
13 *breaching the repository’s engineered or geo-*
14 *logic barriers; and*

15 *“(ii) prevent any increase in the expo-*
16 *sure of individual members of the public to*
17 *radiation beyond the allowable limits speci-*
18 *fied in paragraph (1).*

19 *“(4) ADDITIONAL ANALYSIS.—The Commission*
20 *shall analyze the overall system performance through*
21 *the use of probabilistic evaluations that use best esti-*
22 *mate assumptions, data, and methods for the period*
23 *commencing after the first 1,000 years of operation of*
24 *the repository and terminating at 10,000 years after*
25 *the commencement of operation of the repository.*

1 “(e) *NATIONAL ENVIRONMENTAL POLICY ACT.*—

2 “(1) *SUBMISSION OF STATEMENT.*—*Construction*
3 *and operation of the repository shall be considered a*
4 *major Federal action significantly affecting the qual-*
5 *ity of the human environment for purposes of the Na-*
6 *tional Environmental Policy Act of 1969 (42 U.S.C.*
7 *4321 et seq.). The Secretary shall submit an environ-*
8 *mental impact statement on the construction and op-*
9 *eration of the repository to the Commission with the*
10 *license application and shall supplement such envi-*
11 *ronmental impact statement as appropriate.*

12 “(2) *CONSIDERATIONS.*—*For purposes of comply-*
13 *ing with the requirements of the National Environ-*
14 *mental Policy Act of 1969 and this section, the Sec-*
15 *retary shall not consider in the environmental impact*
16 *statement the need for the repository, or alternative*
17 *sites or designs for the repository.*

18 “(3) *ADOPTION BY COMMISSION.*—*The Sec-*
19 *retary’s environmental impact statement and any*
20 *supplements thereto shall, to the extent practicable, be*
21 *adopted by the Commission in connection with the is-*
22 *suance by the Commission of a construction author-*
23 *ization under subsection (b)(1), a license under sub-*
24 *section (b)(2), or a license amendment under sub-*
25 *section (b)(3). To the extent such statement or supple-*

1 *ment is adopted by the Commission, such adoption*
2 *shall be deemed to also satisfy the responsibilities of*
3 *the Commission under the National Environmental*
4 *Policy Act of 1969, and no further consideration shall*
5 *be required, except that nothing in this subsection*
6 *shall affect any independent responsibilities of the*
7 *Commission to protect the public health and safety*
8 *under the Atomic Energy Act of 1954. In any such*
9 *statement or supplement prepared with respect to the*
10 *repository, the Commission shall not consider the need*
11 *for a repository, or alternate sites or designs for the*
12 *repository.*

13 *“(f) JUDICIAL REVIEW.—No court shall have jurisdic-*
14 *tion to enjoin issuance of the Commission repository licens-*
15 *ing regulations prior to its final decision on review of such*
16 *regulations.*

17 **“SEC. 206. LAND WITHDRAWAL.**

18 *“(a) WITHDRAWAL AND RESERVATION.—*

19 *“(1) WITHDRAWAL.—Subject to valid existing*
20 *rights, the interim storage facility site and the Yucca*
21 *Mountain site, as described in subsection (b), are*
22 *withdrawn from all forms of entry, appropriation,*
23 *and disposal under the public land laws, including*
24 *the mineral leasing laws, the geothermal leasing laws,*
25 *the material sale laws, and the mining laws.*

1 “(2) *JURISDICTION.*—*Jurisdiction of any land*
2 *within the interim storage facility site and the Yucca*
3 *Mountain site managed by the Secretary of the Inte-*
4 *rior or any other Federal officer is transferred to the*
5 *Secretary.*

6 “(3) *RESERVATION.*—*The interim storage facil-*
7 *ity site and the Yucca Mountain site are reserved for*
8 *the use of the Secretary for the construction and oper-*
9 *ation, respectively, of the interim storage facility and*
10 *the repository and activities associated with the pur-*
11 *poses of this title.*

12 “(b) *LAND DESCRIPTION.*—

13 “(1) *BOUNDARIES.*—*The boundaries depicted on*
14 *the map entitled “Interim Storage Facility Site With-*
15 *drawal Map,” dated March , 1995, and on file with*
16 *the Secretary, are established as the boundaries of the*
17 *Interim Storage Facility site.*

18 “(2) *BOUNDARIES.*—*The boundaries depicted on*
19 *the map entitled ‘Yucca Mountain Site Withdrawal*
20 *Map,’ dated March , 1995, and on file with the Sec-*
21 *retary, are established as the boundaries of the Yucca*
22 *Mountain site.*

23 “(3) *NOTICE AND MAPS.*—*Within 6 months of*
24 *the date of the enactment of the Nuclear Waste Policy*
25 *Act of 1996, the Secretary shall—*

1 “(A) publish in the Federal Register a no-
2 tice containing a legal description of the interim
3 storage facility site; and

4 “(B) file copies of the maps described in
5 paragraph (1), and the legal description of the
6 interim storage facility site with the Congress,
7 the Secretary of the Interior, the Governor of Ne-
8 vada, and the Archivist of the United States.

9 “(4) NOTICE AND MAPS.—Concurrent with the
10 Secretary’s application to the Commission for author-
11 ity to construct the repository, the Secretary shall—

12 “(A) publish in the Federal Register a no-
13 tice containing a legal description of the Yucca
14 Mountain site; and

15 “(B) file copies of the maps described in
16 paragraph (2), and the legal description of the
17 Yucca Mountain site with the Congress, the Sec-
18 retary of the Interior, the Governor of Nevada,
19 and the Archivist of the United States.

20 “(5) CONSTRUCTION.—The maps and legal de-
21 scriptions of the interim storage facility site and the
22 yucca Mountain site referred to in this subsection
23 shall have the same force and effect as if they were
24 included in this Act. The Secretary may correct cler-
25 ical and typographical errors in the maps and legal

1 *descriptions and make minor adjustments in the*
2 *boundaries of the sites.*

3 ***“SEC. 207. PERMANENT DISPOSAL ALTERNATIVES.***

4 *“(a) STUDY.—Within 270 days after the date of the*
5 *enactment of the Nuclear Waste Policy Act of 1996, the Sec-*
6 *retary shall report to Congress on alternatives for the per-*
7 *manent disposal of spent nuclear fuel and high-level radio-*
8 *active waste. The report under this section shall include—*

9 *“(1) an assessment of the current state of knowl-*
10 *edge of alternative technologies for the treatment and*
11 *disposal of spent nuclear fuel and high-level radio-*
12 *active waste;*

13 *“(2) an estimate of the costs of research and de-*
14 *velopment of alternative technologies;*

15 *“(3) an analysis of institutional factors associ-*
16 *ated with alternative technologies, including inter-*
17 *national aspects of a decision of the United States to*
18 *proceed with the development of alternative tech-*
19 *nologies (including nuclear proliferation concerns) as*
20 *an option for nuclear waste management and dis-*
21 *posal;*

22 *“(4) a full discussion of environmental and pub-*
23 *lic health and safety aspects of alternative tech-*
24 *nologies;*

1 “(5) recommendations on alternative ways to
2 structure an effort in research, development, and dem-
3 onstration with respect to alternative technologies;
4 and

5 “(6) the recommendation of the Secretary with
6 respect to research, development, and demonstration
7 of the most promising alternative technologies for the
8 treatment and disposal of spent nuclear fuel and
9 high-level radioactive waste.

10 “(b) OFFICE OF NUCLEAR WASTE DISPOSAL RE-
11 SEARCH.—(1) There is hereby established an Office of Nu-
12 clear Waste Disposal Research within the Office of Energy
13 Research of the Department of Energy. The Office shall be
14 headed by the Director, who shall be a member of the Senior
15 executive Service appointed by the Director of the Office of
16 Energy Research, and compensated at a rate determined
17 by applicable law.

18 “(2) The Director of the Office of Nuclear Waste Re-
19 search shall be responsible for carrying out research, devel-
20 opment, and demonstration activities on alternative tech-
21 nologies for the treatment and disposal of high-level nuclear
22 radioactive waste and spent nuclear fuel, subject to the gen-
23 eral supervision of the Secretary. The Director of the Office
24 shall be directly responsible to the Director of the Office of
25 Energy Research, and the first such Director shall be ap-

1 *pointed within 30 days of the date of enactment of the Nu-*
2 *clear Waste Policy Act of 1996.*

3 “(3) *In carrying out his responsibilities under this*
4 *Section, the Secretary may make grants to, or enter into*
5 *contracts with, the Nuclear Waste Research Consortium de-*
6 *scribed in paragraph (4) of this section and other persons.*

7 “(4)(A) *Within 60 days of the date of enactment of*
8 *the Nuclear Waste Policy Act of 1996, the Secretary shall*
9 *establish a university-based Nuclear Waste Disposal Con-*
10 *sortium involving leading universities and institutions, na-*
11 *tional laboratories, the commercial nuclear industry, and*
12 *other organizations to investigate technical and institu-*
13 *tional feasibility of alternative technologies for the treat-*
14 *ment and disposal of spent nuclear fuel and high-level ra-*
15 *dioactive waste.*

16 “(B) *The Nuclear Waste Disposal Consortium shall de-*
17 *velop a research plan and budget to achieve the following*
18 *objectives by 2005:*

19 “(i) *identify promising alternative technologies*
20 *for the treatment and disposal of spent nuclear fuel*
21 *and high-level radioactive waste.*

22 “(ii) *conduct research and develop conceptual de-*
23 *signs for promising alternative technologies, including*
24 *estimated costs and institutional requirements for*
25 *continued research and development; and*

1 “(iii) identify and assess potential impacts of
2 promising alternative technologies on the environ-
3 ment.

4 “(C) In 2000, and again in 2005, the Nuclear Waste
5 Disposal Consortium shall report to Congress on the
6 progress being made in achieving the objectives of para-
7 graph (2).

8 “(5) The Director of the Office of Nuclear Waste Dis-
9 posal Research shall annually prepare and submit a report
10 to the Congress on the activities and expenditures of the
11 Office.

12 **“TITLE III—FUNDING AND ORGANIZATION**

13 **“SEC. 301. PROGRAM FUNDING.**

14 “(a) CONTRACTS.—

15 “(1) AUTHORITY OF SECRETARY.—In the per-
16 formance of the Secretary’s functions under this Act,
17 the Secretary is authorized to enter into contracts
18 with any person who generates or holds title to spent
19 nuclear fuel or high level radioactive waste of domes-
20 tic origin for the acceptance of title and possession,
21 transportation, interim storage, and disposal of such
22 waste or spent fuel. Such contracts shall provide for
23 payment of annual fees to the Secretary in the
24 amounts set by the Secretary pursuant to paragraphs
25 (2) and (3). Subsequent to the date of enactment of

1 *the Nuclear Waste Policy Act of 1996, the contracts*
2 *executed under section 302(a) of the Nuclear Waste*
3 *Policy Act of 1982 shall continue in effect under this*
4 *Act, provided that the Secretary shall consent to an*
5 *amendment to such contracts as necessary to imple-*
6 *ment the provisions of this Act.*

7 “(2) *ANNUAL FEES.*—*For electricity generated by*
8 *civilian nuclear power reactors and sold on or after*
9 *January 7, 1983, the fee under paragraph (1) shall*
10 *be equal to 1.0 mill per kilowatt hour generated and*
11 *sold.*

12 “(3) *ONE-TIME FEE.*—*For spent nuclear fuel or*
13 *solidified high-level radioactive waste derived from*
14 *spent nuclear fuel, which fuel was used to generate*
15 *electricity in a civilian nuclear power reactor prior*
16 *to January 7, 1983, the fee shall be in an amount*
17 *equivalent to an average charge of 1.0 mill per kilo-*
18 *watt-hour for electricity generated by such spent nu-*
19 *clear fuel, or such solidified high-level waste derived*
20 *therefrom, and incorporated in the contracts. Pay-*
21 *ment of such one-time fee prior to the date of enact-*
22 *ment of the Nuclear Waste Policy Act of 1996 shall*
23 *satisfy the obligation imposed under this paragraph.*
24 *Any one-time fee paid and collected subsequent to the*
25 *date of enactment of the Nuclear Waste Policy Act of*

1 1996 pursuant to the contracts, including any inter-
2 est due pursuant to such contracts, shall be paid to
3 the Nuclear Waste Fund. In paying such a fee, the
4 person delivering spent nuclear fuel or high-level ra-
5 dioactive wastes derived therefrom, to the Secretary
6 shall have no further financial obligation to the Fed-
7 eral Government for the long-term storage and perma-
8 nent disposal of such spent fuel or high-level radio-
9 active waste.

10 “(4) *ADJUSTMENTS TO FEE.*—The Secretary
11 shall annually review the amount of the fees estab-
12 lished by paragraphs (2) and (3), together with the
13 existing balance of the Nuclear Waste Fund on the
14 date of enactment of the Nuclear Waste Policy Act of
15 1996, to evaluate whether collection of the fee will
16 provide sufficient revenues to offset the costs as de-
17 fined in subsection (c)(2). In the event the Secretary
18 determines that the revenues being collected are either
19 insufficient or excessive to recover the costs incurred
20 by the Federal Government that are specified in sub-
21 section (c)(2), the Secretary shall propose an adjust-
22 ment to the fee to ensure full cost recovery. The Sec-
23 retary shall immediately transmit the proposal for
24 such an adjustment to both houses of Congress.

25 “(b) *ADVANCE CONTRACTING REQUIREMENT.*—

1 “(1) *IN GENERAL.*—

2 “(A) *LICENSE ISSUANCE AND RENEWAL.*—

3 *The Commission shall not issue or renew a li-*
4 *cence to any person to use a utilization or pro-*
5 *duction facility under the authority of section*
6 *103 or 104 of the Atomic Energy Act of 1954 (42*
7 *U.S.C. 2133, 2134) unless—*

8 “(i) *such person has entered into a*
9 *contract under subsection (a) with the Sec-*
10 *retary; or*

11 “(ii) *the Secretary affirms in writing*
12 *that such person is actively and in good*
13 *faith negotiating with the Secretary for a*
14 *contract under this section.*

15 “(B) *PRECONDITION.*—*The Commission, as*
16 *it deems necessary or appropriate, may require*
17 *as a precondition to the issuance or renewal of*
18 *a license under section 103 or 104 of the Atomic*
19 *Energy Act of 1954 (42 U.S.C. 2133, 2134) that*
20 *the applicant for such license shall have entered*
21 *into an agreement with the Secretary for the dis-*
22 *posal of spent nuclear fuel and high-level radio-*
23 *active waste that may result from the use of such*
24 *license.*

1 “(2) *DISPOSAL IN REPOSITORY.*—*Except as pro-*
 2 *vided in paragraph (1), no spent nuclear fuel or high-*
 3 *level radioactive waste generated or owned by any*
 4 *person (other than a department of the United States*
 5 *referred to in section 101 or 102 of title 5, United*
 6 *States Code) may be disposed of by the Secretary in*
 7 *the repository unless the generator or owner of such*
 8 *spent fuel or waste has entered into a contract under*
 9 *subsection (a) with the Secretary by not later than*
 10 *the date on which such generator or owner commences*
 11 *generation of, or takes title to, such spent fuel or*
 12 *waste.*

13 “(3) *ASSIGNMENT.*—*The rights and duties of*
 14 *contract holders are assignable.*

15 “(c) *NUCLEAR WASTE FUND.*—

16 “(1) *IN GENERAL.*—*The Nuclear Waste Fund es-*
 17 *tablished in the Treasury of the United States under*
 18 *section 302(c) of the Nuclear Waste Policy Act of 1982*
 19 *shall continue in effect under this Act and shall con-*
 20 *sist of—*

21 “(A) *the existing balance in the Nuclear*
 22 *Waste Fund on the date of enactment of the Nu-*
 23 *clear Waste Policy Act of 1996; and*

24 “(B) *all receipts, proceeds, and recoveries*
 25 *realized under subsections (a), and (c)(3) subse-*

1 *quent to the date of enactment of the Nuclear*
2 *Waste Policy Act of 1996, which shall be depos-*
3 *ited in the Nuclear Waste Fund immediately*
4 *upon their realization.*

5 “(2) *USE.—The Secretary may make expendi-*
6 *tures from the Nuclear Waste Fund, subject to sub-*
7 *section (d), only for purposes of the integrated man-*
8 *agement system.*

9 “(3) *ADMINISTRATION OF NUCLEAR WASTE*
10 *FUND.—*

11 “(A) *IN GENERAL.—The Secretary of the*
12 *Treasury shall hold the Nuclear Waste Fund*
13 *and, after consultation with the Secretary, annu-*
14 *ally report to the Congress on the financial con-*
15 *dition and operations of the Nuclear Waste Fund*
16 *during the preceding fiscal year.*

17 “(B) *AMOUNTS IN EXCESS OF CURRENT*
18 *NEEDS.—If the Secretary determines that the*
19 *Nuclear Waste Fund contains at any time*
20 *amounts in excess of current needs, the Secretary*
21 *may request the Secretary of the Treasury to in-*
22 *vest such amounts, or any portion of such*
23 *amounts as the Secretary determines to be ap-*
24 *propriate, in obligations of the United States—*

1 “(i) *having maturities determined by*
 2 *the Secretary of the Treasury to be appro-*
 3 *priate to the needs of the Nuclear Waste*
 4 *Fund; and*

5 “(ii) *bearing interest at rates deter-*
 6 *mined to be appropriate by the Secretary of*
 7 *the Treasury, taking into consideration the*
 8 *current average market yield on outstand-*
 9 *ing marketable obligations of the United*
 10 *States with remaining periods to maturity*
 11 *comparable to the maturities of such invest-*
 12 *ments, except that the interest rate on such*
 13 *investments shall not exceed the average in-*
 14 *terest rate applicable to existing borrowings.*

15 “(C) *EXEMPTION.—Receipts, proceeds, and*
 16 *recoveries realized by the Secretary under this*
 17 *section, and expenditures of amounts from the*
 18 *Nuclear Waste Fund, shall be exempt from an-*
 19 *ual apportionment under the provisions of sub-*
 20 *chapter II of chapter 15 of title 31, United*
 21 *States Code.*

22 “(d) *BUDGET.—The Secretary shall submit the budget*
 23 *for implementation of the Secretary’s responsibilities under*
 24 *this Act to the Office of Management and Budget annually*
 25 *along with the budget of the Department of Energy submit-*

1 *ted at such time in accordance with chapter 11 of title 31,*
 2 *United States Code. The budget shall consist of the estimates*
 3 *made by the Secretary of expenditures under this Act and*
 4 *other relevant financial matters for the succeeding 3 fiscal*
 5 *years, and shall be included in the budget of the United*
 6 *States Government. The Secretary may make expenditures*
 7 *from the Waste Fund, subject to appropriations, which shall*
 8 *remain available until expended.*

9 ***“SEC. 302. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-***
 10 ***AGEMENT.***

11 *“(a) CONTINUATION OF THE OFFICE OF CIVILIAN RA-*
 12 *DIOACTIVE WASTE MANAGEMENT.—The Office of Civilian*
 13 *Radioactive Waste Management established under section*
 14 *304(a) of the Nuclear Waste Policy Act of 1982 as con-*
 15 *stituted prior to the date of enactment of the Nuclear Waste*
 16 *Policy Act of 1996, shall continue in effect subsequent to*
 17 *the date of enactment of the Nuclear Waste Policy Act of*
 18 *1996.*

19 *“(b) DIRECTOR.—The Office shall be headed by the Di-*
 20 *rector, who shall be appointed by the President, by and with*
 21 *the advice and consent of the Senate, and who shall be com-*
 22 *pensated at the rate payable for level IV of the Executive*
 23 *Schedule under section 5315 of title 5, United States Code.*

1 **“SEC. 303. FEDERAL CONTRIBUTION.**

2 “(a) *ALLOCATION.*—No later than one year from the
3 date of enactment of the Nuclear Waste Policy Act of 1996,
4 acting pursuant to section 553 of title 5, United States
5 Code, the Secretary shall issue a final rule establishing the
6 appropriate portion of the costs of managing spent nuclear
7 fuel and high-level radioactive waste under this Act alloca-
8 ble to the interim storage or permanent disposal of spent
9 nuclear fuel and high-level radioactive waste from atomic
10 energy defense activities and spent nuclear fuel from foreign
11 research reactors. The share of costs allocable to the manage-
12 ment of spent nuclear fuel and high-level radioactive waste
13 from atomic energy defense activities and spent nuclear fuel
14 from foreign research reactors shall include,

15 “(1) an appropriate portion of the costs associ-
16 ated with research and development activities with re-
17 spect to development of an interim storage facility
18 and repository; and

19 “(2) as appropriate, interest on the principal
20 amounts due calculated by reference to the appro-
21 priate Treasury bill rate as if the payments were
22 made at a point in time consistent with the payment
23 dates for spent nuclear fuel and high-level radioactive
24 waste under the contracts.

25 “(b) *APPROPRIATION REQUEST.*—In addition to any
26 request for an appropriation from the Nuclear Waste Fund,

1 *the Secretary shall request annual appropriations from gen-*
 2 *eral revenues in amounts sufficient to pay the costs of man-*
 3 *agement of spent nuclear fuel and high-level radioactive*
 4 *waste from atomic energy defense activities as established*
 5 *under subsection (a).*

6 “(c) *REPORT.—In conjunction with the annual report*
 7 *submitted to Congress under Section 702, the Secretary*
 8 *shall advise the Congress annually of the amount of spent*
 9 *nuclear fuel and high-level radioactive waste from atomic*
 10 *energy defense activities requiring management in the inte-*
 11 *grated management system.*

12 “(d) *AUTHORIZATION.—There is authorized to be ap-*
 13 *propriated to the Secretary, from general revenues, for car-*
 14 *rying out the purposes of this Act, such sums as may be*
 15 *necessary to pay the costs of the management of spent nu-*
 16 *clear fuel and high-level radioactive waste from atomic en-*
 17 *ergy defense activities as established under subsection (a).*

18 **SEC. 304. BUDGET PRIORITIES.**

19 “(a) *THE SECRETARY.—For purposes of preparing*
 20 *annual requests for appropriations for the integrated man-*
 21 *agement system and allocating funds among competing re-*
 22 *quirements, the Secretary shall give funding for the licens-*
 23 *ing, construction, and operation of the interim storage fac-*
 24 *ulty under section 204 and development of the transpor-*

1 *tation capability under section 201, 202 and 203 the high-*
 2 *est priority.*

3 “(b) *THE COMMISSION.—For purposes of preparing*
 4 *annual requests for appropriations from the Nuclear Waste*
 5 *Fund and allocating annual appropriations from the Nu-*
 6 *clear Waste Fund among competing requirements, the Com-*
 7 *mission shall allocate funds in accordance with the follow-*
 8 *ing prioritization:*

9 “(1) *the issuance of regulations for and the li-*
 10 *censing of an interim storage facility under section*
 11 *205 and any associated storage and/or transport sys-*
 12 *tems to be used in the integrated management system*
 13 *shall be accorded the highest priority; and*

14 “(2) *the licensing of the repository under section*
 15 *206 shall be accorded the next highest priority.*

16 ***“TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS***

17 ***“SEC. 401. COMPLIANCE WITH OTHER LAWS.***

18 *The actions authorized by the Nuclear Waste Policy*
 19 *Act of 1996 shall be governed solely in accordance with the*
 20 *provisions of the Atomic Energy Act, the Energy Reorga-*
 21 *nization Act of 1974, the Hazardous Materials Transpor-*
 22 *tation Act, the Nuclear Waste Policy Act of 1996, and the*
 23 *regulations issued thereunder. Such activities shall not be*
 24 *subject to any other federal, state, or local atomic energy,*
 25 *environmental or land use laws, regulations or orders in-*

1 *cluding, but not limited to, those requiring permits, li-*
 2 *censes, right-of-way, certifications or authorizations, that*
 3 *would otherwise apply to such activities.*

4 ***“SEC. 402. JUDICIAL REVIEW OF AGENCY ACTIONS.***

5 *“(a) JURISDICTION OF THE UNITED STATES COURTS*
 6 *OF APPEALS.—*

7 *“(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—*
 8 *Except for review in the Supreme Court of the United*
 9 *States, and except as otherwise provided in this Act,*
 10 *the United States courts of appeals shall have original*
 11 *and exclusive jurisdiction over any civil action—*

12 *“(A) for review of any final decision or ac-*
 13 *tion of the Secretary, the President, or the Com-*
 14 *mission under this Act;*

15 *“(B) alleging the failure of the Secretary,*
 16 *the President, or the Commission to make any*
 17 *decision, or take any action, required under this*
 18 *Act;*

19 *“(C) challenging the constitutionality of*
 20 *any decision made, or action taken under any*
 21 *provision of this Act; or*

22 *“(D) for review of any environmental im-*
 23 *pact statement prepared or environmental assess-*
 24 *ment pursuant to the National Environmental*
 25 *Policy Act of 1969 (42 U.S.C. 4321 et seq.) with*

1 *respect to any action under this Act or alleging*
2 *a failure to prepare such statement with respect*
3 *to any such action.*

4 “(2) *VENUE.*—*The venue of any proceeding*
5 *under this section shall be in the judicial circuit in*
6 *which the petitioner involved resides or has its prin-*
7 *cipal office, or in the United States Court of Appeals*
8 *for the District of Columbia Circuit.*

9 “(b) *DEADLINE FOR COMMENCING ACTION.*—*A civil*
10 *action for judicial review described under subsection (a)(1)*
11 *may be brought no later than 180 days after the date of*
12 *the decision or action or failure to act involved, as the case*
13 *may be, except that if a party shows that he did not know*
14 *of the decision or action complained of (or of the failure*
15 *to act), and that a reasonable person acting under the cir-*
16 *cumstances would not have known such party may bring*
17 *a civil action no later than 180 days after the date such*
18 *party acquired actual or constructive knowledge or such de-*
19 *cision, action, or failure to act.*

20 “(c) *APPLICATION OF OTHER LAW.*—*The provision of*
21 *this section relating to any matter shall apply in lieu of*
22 *the provisions of any other Act relating to the same matter.*

1 **“SEC. 403. LICENSING OF FACILITY EXPANSIONS AND**
2 **TRANSSHIPMENTS.**

3 “(a) *ORAL ARGUMENT.*—*In any Commission hearing*
4 *under section 189 of the Atomic Energy Act of 1954 (42*
5 *U.S.C. 2239) on an application for a license, or for an*
6 *amendment to an existing license, filed after January 7,*
7 *1983, to expand the spent nuclear fuel storage capacity at*
8 *the site of a civilian nuclear power reactor, through the use*
9 *of high-density fuel storage racks, fuel rod compaction, the*
10 *transshipment of spent nuclear fuel to another civilian nu-*
11 *clear power reactor within the same utility system, the con-*
12 *struction of additional spent nuclear fuel pool capacity or*
13 *dry storage capacity, or by other means, the Commission*
14 *shall, at the request of any party, provide an opportunity*
15 *for oral argument with respect to any matter which the*
16 *Commission determines to be in controversy among the par-*
17 *ties. The oral argument shall be preceded by such discovery*
18 *procedures as the rules of the Commission shall provide. The*
19 *Commission shall require each party, including the Com-*
20 *mission staff, to submit in written form, at the time of the*
21 *oral argument, a summary of the facts, data, and argu-*
22 *ments upon which such party proposes to rely that are*
23 *known at such time to such party. Only facts and data in*
24 *the form of sworn testimony or written submission may be*
25 *relied upon by the parties during oral argument. Of the*
26 *materials that may be submitted by the parties during oral*

1 *argument, the Commission shall only consider those facts*
 2 *and data that are submitted in the form of sworn testimony*
 3 *or written submission.*

4 “(b) *ADJUDICATORY HEARING.*—

5 “(1) *DESIGNATION.*—*At the conclusion of any*
 6 *oral argument under subsection (a), the Commission*
 7 *shall designate any disputed question of fact, together*
 8 *with any remaining questions of law, for resolution*
 9 *in an adjudicatory hearing only if it determines*
 10 *that—*

11 “(A) *there is a genuine and substantial dis-*
 12 *pute of fact which can only be resolved with suf-*
 13 *ficient accuracy by the introduction of evidence*
 14 *in an adjudicatory hearing; and*

15 “(B) *the decision of the Commission is like-*
 16 *ly to depend in whole or in part on the resolu-*
 17 *tion of such dispute.*

18 “(2) *DETERMINATION.*—*In making a determina-*
 19 *tion under this subsection, the Commission—*

20 “(A) *shall designate in writing the specific*
 21 *facts that are in genuine and substantial dis-*
 22 *pute, the reason why the decision of the agency*
 23 *is likely to depend on the resolution of such facts,*
 24 *and the reason why an adjudicatory hearing is*
 25 *likely to resolve the dispute; and*

1 “(B) shall not consider—

2 “(i) any issue relating to the design,
3 construction, or operation of any civilian
4 nuclear power reactor already licensed to
5 operate at such site, or any civilian nuclear
6 power reactor to which a construction per-
7 mit has been granted at such site, unless the
8 Commission determines that any such issue
9 substantially affects the design, construc-
10 tion, or operation of the facility or activity
11 for which such license application, author-
12 ization, or amendment is being considered;
13 or

14 “(ii) any siting or design issue fully
15 considered and decided by the Commission
16 in connection with the issuance of a con-
17 struction permit or operating license for a
18 civilian nuclear power reactor at such site,
19 unless

20 “(I) such issue results from any
21 revision of siting or design criteria by
22 the Commission following such deci-
23 sion; and

24 “(II) the Commission determines
25 that such issue substantially affects the

1 *design, construction, or operation of*
 2 *the facility or activity for which such*
 3 *license application, authorization, or*
 4 *amendment is being considered.*

5 “(3) *APPLICATION.—The provisions of para-*
 6 *graph (2)(B) shall apply only with respect to licenses,*
 7 *authorizations, or amendments to licenses or author-*
 8 *izations, applied for under the Atomic Energy Act of*
 9 *1954 (42 U.S.C. 2011 et seq.) before December 31,*
 10 *2005.*

11 “(4) *CONSTRUCTION.—The provisions of this sec-*
 12 *tion shall not apply to the first application for a li-*
 13 *cence or license amendment received by the Commis-*
 14 *sion to expand onsite spent fuel storage capacity by*
 15 *the use of a new technology not previously approved*
 16 *for use at any nuclear power plant by the Commis-*
 17 *sion.*

18 “(c) *JUDICIAL REVIEW.—No court shall hold unlawful*
 19 *or set aside a decision of the Commission in any proceeding*
 20 *described in subsection (a) because of a failure by the Com-*
 21 *mission to use a particular procedure pursuant to this sec-*
 22 *tion unless—*

23 “(1) *an objection to the procedure used was pre-*
 24 *sented to the Commission in a timely fashion or there*

1 are extraordinary circumstances that excuse the fail-
 2 ure to present a timely objection; and

3 “(2) the court finds that such failure has pre-
 4 cluded a fair consideration and informed resolution of
 5 a significant issue of the proceeding taken as a whole.

6 **“SEC. 404. SITING A SECOND REPOSITORY.**

7 “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-
 8 retary may not conduct site-specific activities with respect
 9 to a second repository unless Congress has specifically au-
 10 thorized and appropriated funds for such activities.

11 “(b) REPORT.—The Secretary shall report to the Presi-
 12 dent and to Congress on or after January 1, 2007, but not
 13 later than January 1, 2010, on the need for a second reposi-
 14 tory.

15 **“SEC. 405. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RA-**
 16 **DIOACTIVE WASTE SITE CLOSURE.**

17 “(a) FINANCIAL ARRANGEMENTS.—

18 “(1) STANDARDS AND INSTRUCTIONS.—The Com-
 19 mission shall establish by rule, regulation, or order,
 20 after public notice, and in accordance with section
 21 181 of the Atomic Energy Act of 1954 (42 U.S.C.
 22 2231), such standards and instructions as the Com-
 23 mission may deem necessary or desirable to ensure in
 24 the case of each license for the disposal of low-level ra-
 25 dioactive waste that an adequate bond, surety, or

1 *other financial arrangement (as determined by the*
2 *Commission) will be provided by a licensee to permit*
3 *completion of all requirements established by the*
4 *Commission for the decontamination, decommission-*
5 *ing, site closure, and reclamation of sites, structures,*
6 *and equipment used in conjunction with such low-*
7 *level radioactive waste. Such financial arrangements*
8 *shall be provided and approved by the Commission,*
9 *or, in the case of sites within the boundaries of any*
10 *agreement State under section 274 of the Atomic En-*
11 *ergy Act of 1954 (42 U.S.C. 2021), by the appropriate*
12 *State or State entity, prior to issuance of licenses for*
13 *low-level radioactive waste disposal or, in the case of*
14 *licenses in effect on January 7, 1983, prior to termi-*
15 *nation of such licenses.*

16 “(2) *BONDING, SURETY, OR OTHER FINANCIAL*
17 *ARRANGEMENTS.—If the Commission determines that*
18 *any long-term maintenance or monitoring, or both,*
19 *will be necessary at a site described in paragraph (1),*
20 *the Commission shall ensure before termination of the*
21 *license involved that the licensee has made available*
22 *such bonding, surety, or other financial arrangements*
23 *as may be necessary to ensure that any necessary*
24 *long-term maintenance or monitoring needed for such*

1 *site will be carried out by the person having title and*
2 *custody for such site following license termination.*

3 *“(b) TITLE AND CUSTODY.—*

4 *“(1) AUTHORITY OF SECRETARY.—The Secretary*
5 *shall have authority to assume title and custody of*
6 *low-level radioactive waste and the land on which*
7 *such waste is disposed of, upon request of the owner*
8 *of such waste and land and following termination of*
9 *the license issued by the Commission for such dis-*
10 *posal, if the Commission determines that—*

11 *“(A) the requirements of the Commission for*
12 *site closure, decommissioning, and decontamina-*
13 *tion have been met by the licensee involved and*
14 *that such licensee is in compliance with the pro-*
15 *visions of subsection (a);*

16 *“(B) such title and custody will be trans-*
17 *ferred to the Secretary without cost to the Fed-*
18 *eral Government; and*

19 *“(C) Federal ownership and management of*
20 *such site is necessary or desirable in order to*
21 *protect the public health and safety, and the en-*
22 *vironment.*

23 *“(2) PROTECTION.—If the Secretary assumes*
24 *title and custody of any such waste and land under*
25 *this subsection, the Secretary shall maintain such*

1 waste and land in a manner that will protect the
2 public health and safety, and the environment.

3 “(c) *SPECIAL SITES.*—If the low-level radioactive
4 waste involved is the result of a licensed activity to recover
5 zirconium, hafnium, and rare earths from source material,
6 the Secretary, upon request of the owner of the site involved,
7 shall assume title and custody of such waste and the land
8 on which it is disposed when such site has been decontami-
9 nated and stabilized in accordance with the requirements
10 established by the Commission and when such owner has
11 made adequate financial arrangements approved by the
12 Commission for the long-term maintenance and monitoring
13 of such site.

14 **“SEC. 406. NUCLEAR REGULATORY COMMISSION TRAINING**
15 **AUTHORIZATION.**

16 “The Commission is authorized and directed to pro-
17 mulgate regulations, or other appropriate regulatory guid-
18 ance, for the training and qualifications of civilian nuclear
19 power plant operators, supervisors, technicians, and other
20 appropriate operating personnel. Such regulations or guid-
21 ance shall establish simulator training requirements for ap-
22 plicants for civilian nuclear power plant operator licenses
23 and for operator requalification programs; requirements
24 governing Commission administration of requalification
25 examinations; requirements for operating tests at civilian

1 nuclear power plant simulators, and instructional require-
2 ments for civilian nuclear power plant licensee personnel
3 training programs.

4 ***“SEC. 407. EMPLACEMENT SCHEDULE.***

5 *“(a) The emplacement schedule shall be implemented*
6 *in accordance with the following:*

7 *“(1) Emplacement priority ranking shall be de-*
8 *termined by the Department’s annual ‘Acceptance*
9 *Priority Ranking’ report.*

10 *“(2) The Secretary’s spent fuel emplacement rate*
11 *shall be no less than the following: 1,200 MTU in*
12 *1999 and 1,200 MTU in 2000; 2,000 MTU in 2001*
13 *and 2,000 MTU in 2002; 2,700 MTU in 2003; and*
14 *3,000 MTU annually thereafter.*

15 *“(b) If the Secretary is unable to begin emplacement*
16 *by January 31, 1999 at the rates specified in paragraph*
17 *(a), or if the cumulative amount emplaced in any year*
18 *thereafter is less than that which would have been accepted*
19 *under the emplacement rate specified in paragraph (a), the*
20 *Secretary shall, as a mitigation measure, adjust the em-*
21 *placement schedule upward such that within 5 years of the*
22 *start of emplacement by the Secretary—*

23 *“(1) the total quantity accepted by the Secretary*
24 *is consistent with the total quantity that the Sec-*

1 retary would have accepted if the Secretary had began
2 emplacement in 1999, and

3 “(2) thereafter the emplacement rate is equiva-
4 lent to the rate that would be in place pursuant to
5 paragraph (a) above if the Secretary had commenced
6 emplacement in 1999.

7 **“SEC. 408. EMERGENCY RELIEF.**

8 “(a) If the Secretary determines that a contract holder
9 qualifies for emergency relief under this paragraph, the con-
10 tract holder may execute an emergency relief contract with
11 entities qualified to provide interim storage and condi-
12 tioning. Under the emergency relief contract, the qualified
13 entities would package, ship, and receive a contract holder’s
14 spent nuclear fuel for interim storage and conditioning,
15 with any spent nuclear fuel and the equivalent radioactive
16 residues resulting from any conditioning services returned
17 to the Secretary no later than December 31, 2045.

18 “(b) A contract holder qualifies for emergency relief
19 under this section if the contract holder—

20 “(1) has exhausted its existing on-site storage ca-
21 pacity;

22 “(2) is unable to complete scheduled decommis-
23 sioning because spent nuclear fuel cannot be removed
24 from the site;

1 “(3) the spent fuel is of a nonstandard form
2 which cannot be accepted at the central storage facil-
3 ity; or

4 “(4) the Secretary determines there is a situation
5 that requires emergency relief under this paragraph.

6 “(c) Title to all spent nuclear fuel and high-level radio-
7 active waste resulting from the treatment of that fuel subject
8 to an emergency relief contract under this paragraph shall
9 transfer to the Secretary upon packaging of the fuel by the
10 qualified entity.

11 **“SEC. 409. TRANSFER OF TITLE.**

12 “Acceptance by the Secretary of any spent nuclear fuel
13 or high-level radioactive waste shall constitute a transfer
14 of title to the Secretary.

15 **“SEC. 410. ENVIRONMENTAL REQUIREMENTS.**

16 “Notwithstanding any other law or regulation, the ob-
17 ligations of the Secretary and the Commission pursuant to
18 the National Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et. seq.) in connection with the siting, design, licens-
20 ing, construction or operation of any component of the inte-
21 grated management system are as set forth in this Act and
22 no further actions other than those specified are required
23 to meet the Secretary’s or the Commission’s obligations
24 under such Act.

1 **“SEC. 411. DECOMMISSIONING PILOT PROGRAM.**

2 “(a) *AUTHORIZATION.*—*The Secretary is authorized to*
 3 *establish a Decommissioning Pilot Program to decommis-*
 4 *sion and decontaminate the sodium-cooled fast breeder ex-*
 5 *perimental test-site reactor located in northwest Arkansas.*

6 “(b) *FUNDING.*—*No funds from the Nuclear Waste*
 7 *Fund may be used for the Decommissioning Pilot Program.*

8 **“TITLE V—NUCLEAR WASTE TECHNICAL**
 9 ***REVIEW BOARD***

10 **“SEC. 501. DEFINITIONS.**

11 “*For purposes of this title—*

12 “(1) *CHAIRMAN.*—*The term ‘Chairman’ means*
 13 *the Chairman of the Nuclear Waste Technical Review*
 14 *Board.*

15 “(2) *BOARD.*—*The term ‘Board’ means the Nu-*
 16 *clear Waste Technical Review Board continued under*
 17 *section 502.*

18 **“SEC. 502. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

19 “(a) *CONTINUATION OF THE NUCLEAR WASTE TECH-*
 20 *NICAL REVIEW BOARD.*—*The Nuclear Waste Technical Re-*
 21 *view Board, established under section 502(a) of the Nuclear*
 22 *Waste Policy Act of 1982 as constituted prior to the date*
 23 *of enactment of the Nuclear Waste Policy Act of 1996, shall*
 24 *continue in effect subsequent to the date of enactment of*
 25 *the Nuclear Waste Policy Act of 1996.*

26 “(b) *MEMBERS.*—

1 “(1) *NUMBER.*—*The Board shall consist of 11*
 2 *members who shall be appointed by the President not*
 3 *later than 90 days after December 22, 1987, from*
 4 *among persons nominated by the National Academy*
 5 *of Sciences in accordance with paragraph (3).*

6 “(2) *CHAIR.*—*The President shall designate a*
 7 *member of the Board to serve as Chairman.*

8 “(3) *NATIONAL ACADEMY OF SCIENCES.*—

9 “(A) *NOMINATIONS.*—*The National Acad-*
 10 *emy of Sciences shall, not later than 90 days*
 11 *after December 22, 1987, nominate not less than*
 12 *22 persons for appointment to the Board from*
 13 *among persons who meet the qualifications de-*
 14 *scribed in subparagraph (C).*

15 “(B) *VACANCIES.*—*The National Academy*
 16 *of Sciences shall nominate not less than 2 per-*
 17 *sons to fill any vacancy on the Board from*
 18 *among persons who meet the qualifications de-*
 19 *scribed in subparagraph (C).*

20 “(C) *NOMINEES.*—

21 “(i) *Each person nominated for ap-*
 22 *pointment to the Board shall be—*

23 “(I) *eminent in a field of science*
 24 *or engineering, including environ-*
 25 *mental sciences; and*

1 “(II) selected solely on the basis of
2 established records of distinguished
3 service.

4 “(ii) The membership of the Board
5 shall be representatives of the broad range of
6 scientific and engineering disciplines relat-
7 ed to activities under this title.

8 “(iii) No person shall be nominated for
9 appointment to the Board who is an em-
10 ployee of—

11 “(I) the Department of Energy;

12 “(II) a national laboratory under
13 contract with the Department of En-
14 ergy; or

15 “(III) an entity performing spent
16 nuclear fuel or high-level radioactive
17 waste activities under contract with
18 the Department of Energy.

19 “(4) VACANCIES.—Any vacancy on the Board
20 shall be filled by the nomination and appointment
21 process described in paragraphs (1) and (3).

22 “(5) TERMS.—Members of the Board shall be ap-
23 pointed for terms of 4 years, each such term to com-
24 mence 120 days after December 22, 1987, except that
25 of the 11 members first appointed to the Board, 5

1 *shall serve for 2 years and 6 shall serve for 4 years,*
2 *to be designated by the President at the time of ap-*
3 *pointment.*

4 ***“SEC. 503. FUNCTIONS.***

5 *“The Board shall evaluate the technical and scientific*
6 *validity of activities undertaken by the Secretary after De-*
7 *cember 22, 1987, including—*

8 *“(1) site characterization activities; and*

9 *“(2) activities relating to the packaging or trans-*
10 *portation of spent nuclear fuel or high-level radio-*
11 *active waste.*

12 ***“SEC. 504. INVESTIGATORY POWERS.***

13 *“(a) HEARINGS.—Upon request of the Chairman or a*
14 *majority of the members of the Board, the Board may hold*
15 *such hearings, sit and act at such times and places, take*
16 *such testimony, and receive such evidence, as the Board con-*
17 *siders appropriate. Any member of the Board may admin-*
18 *ister oaths or affirmations to witnesses appearing before the*
19 *Board.*

20 *“(b) PRODUCTION OF DOCUMENTS.—*

21 *“(1) RESPONSES TO INQUIRIES.—Upon the re-*
22 *quest of the Chairman or a majority of the members*
23 *of the Board, and subject to existing law, the Sec-*
24 *retary (or any contractor of the Secretary) shall pro-*
25 *vide the Board with such records, files, papers, data,*

1 or information as may be necessary to respond to any
2 inquiry of the Board under this title.

3 “(2) *EXTENT.*—Subject to existing law, informa-
4 tion obtainable under paragraph (1) shall not be lim-
5 ited to final work products of the Secretary, but shall
6 include drafts of such products and documentation of
7 work in progress.

8 **“SEC. 505. COMPENSATION OF MEMBERS.**

9 “(a) *IN GENERAL.*—Each member of the Board shall
10 be paid at the rate of pay payable for level III of the Execu-
11 tive Schedule for each day (including travel time) such
12 member is engaged in the work of the Board.

13 “(b) *TRAVEL EXPENSES.*—Each member of the
14 Board may receive travel expenses, including per
15 diem in lieu of subsistence, in the same manner as is
16 permitted under sections 5702 and 5703 of title 5,
17 United States Code.

18 **“SEC. 506. STAFF.**

19 “(a) *CLERICAL STAFF.*—

20 “(1) *AUTHORITY OF CHAIRMAN.*—Subject to
21 paragraph (2), the Chairman may appoint and fix
22 the compensation of such clerical staff as may be nec-
23 essary to discharge the responsibilities of the Board.

24 “(2) *PROVISIONS OF TITLE 5.*—Clerical staff
25 shall be appointed subject to the provisions of title 5,

1 *United States Code, governing appointments in the*
2 *competitive service, and shall be paid in accordance*
3 *with the provisions of chapter 51 and subchapter III*
4 *of chapter 3 of such title relating to classification and*
5 *General Schedule pay rates.*

6 “(b) *PROFESSIONAL STAFF.*—

7 “(1) *AUTHORITY OF CHAIRMAN.*—Subject to
8 *paragraphs (2) and (3), the Chairman may appoint*
9 *and fix the compensation of such professional staff as*
10 *may be necessary to discharge the responsibilities of*
11 *the Board.*

12 “(2) *NUMBER.*—Not more than 10 professional
13 *staff members may be appointed under this sub-*
14 *section.*

15 “(3) *TITLE 5.*—Professional staff members may
16 *be appointed without regard to the provisions of title*
17 *5, United States Code, governing appointments in the*
18 *competitive service, and may be paid without regard*
19 *to the provisions of chapter 51 and subchapter III of*
20 *chapter 53 of such title relating to classification and*
21 *General Schedule pay rates, except that no individual*
22 *so appointed may receive pay in excess of the annual*
23 *rate of basic pay payable for GS–18 of the General*
24 *Schedule.*

1 ***“SEC. 507. SUPPORT SERVICES.***

2 “(a) *GENERAL SERVICES.*—*To the extent permitted by*
3 *law and requested by the Chairman, the Administrator of*
4 *General Services shall provide the Board with necessary*
5 *administrative services, facilities, and support on a reim-*
6 *bursable basis.*

7 “(b) *ACCOUNTING, RESEARCH, AND TECHNOLOGY AS-*
8 *SESSMENT SERVICES.*—*The Comptroller General, the Li-*
9 *brarian of Congress, and the Director of the Office of Tech-*
10 *nology Assessment shall, to the extent permitted by law and*
11 *subject to the availability of funds, provide the Board with*
12 *such facilities, support, funds and services, including staff,*
13 *as may be necessary for the effective performance of the*
14 *functions of the Board.*

15 “(c) *ADDITIONAL SUPPORT.*—*Upon the request of the*
16 *Chairman, the Board may secure directly from the head*
17 *of any department or agency of the United States informa-*
18 *tion necessary to enable it to carry out this title.*

19 “(d) *MAILS.*—*The Board may use the United States*
20 *mails in the same manner and under the same conditions*
21 *as other departments and agencies of the United States.*

22 “(e) *EXPERTS AND CONSULTANTS.*—*Subject to such*
23 *rules as may be prescribed by the Board, the Chairman may*
24 *procure temporary and intermittent services under section*
25 *3109(b) of title 5 of the United States Code, but at rates*
26 *for individuals not to exceed the daily equivalent of the*

1 *maximum annual rate of basic pay payable for GS-18 of*
2 *the General Schedule.*

3 ***“SEC. 508. REPORT.***

4 *“The Board shall report not less than 2 times per year*
5 *to Congress and the Secretary its findings, conclusions, and*
6 *recommendations.*

7 ***“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.***

8 *“There are authorized to be appropriated for expendi-*
9 *tures such sums as may be necessary to carry out the provi-*
10 *sions of this title.*

11 ***“SEC. 510. TERMINATION OF THE BOARD.***

12 *“The Board shall cease to exist not later than one year*
13 *after the date on which the Secretary begins disposal of*
14 *spent nuclear fuel or high-level radioactive waste in the re-*
15 *pository.”.*